



MINUTES
ISLAMORADA, VILLAGE OF ISLANDS
REGULAR VILLAGE COUNCIL MEETING

Founders Park Community Center
87000 Overseas Highway Islamorada, FL 33036
Tuesday, October 25, 2022

I. CALL TO ORDER

Mayor Pete Bacheler called the meeting to order at 5:30 p.m.

II. ROLL CALL

PRESENT: Councilman Mark Gregg, Councilman Joseph B. Pinder III, Councilman David Webb, Vice Mayor Henry Rosenthal, Mayor Pete Bacheler

ABSENT: None

III. PLEDGE OF ALLEGIANCE

Sue Miller led the Pledge of Allegiance.

IV. AGENDA: Requests for Deletion / Emergency Additions

Tab X – Motion to rescind Ord. 22-05, Vessel Exclusion Zone was added after the agenda had been distributed.

Councilman David Webb added a discussion regarding the council's protocol for charitable donations.

V. PUBLIC COMMENT – 5:32 p.m.

Speakers included Van Cadenhead, Joe Wischmeier, Dianne Wischmeier, Sue Miller, Denise Downing, and Alina Davis.

Councilman Joseph B. Pinder III and Vice Mayor Henry Rosenthal responded to comments raised by some of the speakers.

VI. VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS – 5:55 pm

A. Holiday Light Discussion

Village Manager Ted Yates noted that the holiday light issue that he wished to speak about had already been resolved.

Discussion ensued regarding what Council wanted to see in the proposed charitable donation policy framework.

Mr. Yates announced that the Crooked Palm Brewery and Distillery Quasi-Judicial hearing may be on the November 17th agenda.

He thanked staff for participating in Trunk or Treat last weekend and noted the success of the event.

Interim Village Attorney John Quick brought Council up to date on the 300 housing allocations case discussed during the recent legal update noting a case has been filed.

Attorney Quick also noted the DeLeon-Avacado survey has been completed to clarify whether there were encroachments in the right of way. He noted there were and that they needed to be removed at the property owner's expense.

Attorney Quick noted the Council meeting on November 17 would be the last meeting with the current Council and that the new Council will be sworn in on December 8. He clarified that the election must be certified first by the County and then by the Village Canvassing Board as required by Charter, which doesn't occur until after November 18.

VII. CONSENT AGENDA – 6:12 p.m.

Public comment was opened after the Village Manager summarized the items on the Consent Agenda – 6:15 p.m.

There was no one wishing to speak.

Moved by Councilman David Webb, seconded by Mark Gregg to adopt the Consent Agenda as presented.

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|-----------|---|--------------|
| A. | Minutes of October 6, 2022 Regular Village Council Meeting
Minutes of Budget Workshops held August 8 and 9, 2022
Minutes of Special Public Input Session, Executive Session, and
Special Call Village Council Meeting held August 15, 2022
Minutes of First Budget Hearing held September 8, 2022
Minutes of Second Budget Hearing held September 19, 2022 | TAB_1 |
| B. | Resolution Approving Final Ranking and Recommendation of the
RFP 22-09 Evaluation Committee for Selection of a Contractor to Install a
Handicap Parking Space and Access Ramps at the Green Turtle Hammock
Preserve Buildings | TAB_2 |

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE FINAL RANKINGS AND RECOMMENDATIONS OF THE RFP 22-09 EVALUATION COMMITTEE FOR

SELECTION OF A CONTRACTOR TO INSTALL HANDICAP PARKING AND ACCESS RAMPS FOR GREEN TURTLE HAMMOCK PRESERVE BUILDINGS; AUTHORIZING THE VILLAGE MANAGER AND VILLAGE ATTORNEY TO NEGOTIATE AN AGREEMENT FOR THE REQUESTED SERVICES; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE

- C. Resolution Accepting Grant Award from the Florida Department of Environmental Protection through the Resilient Florida Grant Program for the Islamorada Vulnerability Assessment **TAB_3**

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA ACCEPTING THE GRANT AWARD FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION THROUGH THE RESILIENT FLORIDA GRANT PROGRAM FOR THE VULNERABILITY ASSESSMENT; APPROVING GRANT AGREEMENT NUMBER 22PLN68 BETWEEN THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND ISLAMORADA, VILLAGE OF ISLANDS TO PROVIDE REIMBURSEMENT FUNDING FOR THE PROJECT THROUGH SEPTEMBER 30, 2026; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE GRANT AGREEMENT; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING AN EFFECTIVE DATE

- D. Resolution Approving Final Ranking and Recommendation of the RFP 22-10 Evaluation Committee for Selection of a Contractor for the Key Tree Cactus Preserve Restroom, Driveway Exit and Kiosk Project **TAB_4**

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE FINAL RANKINGS AND RECOMMENDATIONS OF THE RFP 22-10 EVALUATION COMMITTEE FOR SELECTION OF A CONTRACTOR TO COMPLETE THE KEY TREE CACTUS PRESERVE PHASE 3 PROJECT; AUTHORIZING THE VILLAGE MANAGER AND VILLAGE ATTORNEY TO NEGOTIATE AN AGREEMENT FOR THE REQUESTED SERVICES; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING AN EFFECTIVE DATE

- E. Resolution Approving the Purchase of Two (2) Scag Cheetah II 61" Rear Discharge Lawn Mowers **TAB_5**

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE PURCHASE OF TWO (2) SCAG CHEETAH II 61" REAR DISCHARGE LAWN MOWERS FOR THE VILLAGE PUBLIC WORKS DEPARTMENT FROM GREEN THUMB PALM BEACH BY PIGGYBACKING THE FLORIDA SHERIFF'S ASSOCIATION CONTRACT NO. FSA20-EQU18.0;

AUTHORIZING THE VILLAGE MANAGER TO EXECUTE NECESSARY DOCUMENTS; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING AN EFFECTIVE DATE

- F.** Resolution Approving a First Amendment to the Continuing Services Agreement With M. T. Causley, LLC, For Building Services Department Support Services

TAB _6

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING A FIRST AMENDMENT TO THE CONTINUING SERVICES AGREEMENT BETWEEN M. T. CAUSLEY, LLC, AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE GENERAL SUPPORT SERVICES TO THE BUILDING SERVICES DEPARTMENT; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE FIRST AMENDMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE FIRST AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE

- G.** Resolution Approving Work Authorization No. 3 with M. T. Causley, LLC, for Building Services Department Support Services

TAB _7

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING WORK AUTHORIZATION NO. 3 BETWEEN M. T. CAUSLEY, LLC, AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE GENERAL SUPPORT SERVICES TO THE BUILDING SERVICES DEPARTMENT; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF WORK AUTHORIZATION NO. 3; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE WORK AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE

AYES: Councilman Mark Gregg, Councilman Joseph B. Pinder III, Councilman David Webb, Vice Mayor Henry Rosenthal, Mayor Pete Bacheler

NAYS: None

Motion passes 5-0

XI. QUASI-JUDICIAL – 6 :16 p.m.

Interim Village Attorney John Quick read the Quasi-Judicial statement for tabs 8 and 9 and the Village Clerk swore in witnesses intending to provide testimony.

- A.** Appeal of Denial for Administrative Variance - Kiyashka

TAB _8

Attorney Quick noted the request is a dock length variance that had been denied.

He asked Council to reveal any ex parte conversations applicable to Tab 8

Councilman David Webb

- None

Councilman Joseph B. Pinder III

- Village Manager Ted Yates
- Planning Director Dan Gulizio
- Pat Dunn, contractor
- Clara Johnson, real estate agent

Councilman Mark Gregg

- Russ Yagel, attorney for the applicant
- Received an email from an attorney representing the Tarpon Flats community

Vice Mayor Henry Rosenthal

- Village Manager Ted Yates
- Planning Director Dan Gulizio
- Pat Dunn, contractor
- Clara Johnson, real estate agent

Mayor Pete Bacheler

- Attorney Russ Yagel
- Real estate agent Clara Johnson
- Planning Director Dan Gulizio
- Village Manager Ted Yates

Planning Director Dan Gulizio introduced the item noting the dock variance request had been denied due to shallow water and no spots clear of seagrass in the proposed area. He noted that Village Council was required to review whether the Director made an error of fact.

6:40 pm – Russ Yagel, counsel for Mr. Kiyashka, presented his applicant's request and noted if it was denied it would be the only property in Little Basin without a dock. He indicated that his client would be denied his property rights without the variance.

7:06 p.m. Mayor Pete Bacheler explained the hearing process was to take comments from those in favor then those in opposition, and witnesses making a statement may be subject to cross examination.

7:13 p.m. There was no one wishing to speak in favor of overturning the denial.

7:13 p.m. Mayor Bacheler called for those opposed to overturning the denial to provide testimony.

- Van Cadenhead
- Don Horton
- Tom Raffanello

Mr. Yagel presented his summation at 7:22 p.m. noting the requirement to provide 5' of water depth over a seagrass bed is insufficient to accomplish the goal of protecting seagrass. He further contended that the denial to install a dock was unfair to his client.

Council discussion ensued at 7:24 p.m. The consensus was that the rules of a quasi-judicial hearing is that staff's assessment is correct until the counsel for the applicant proves otherwise. It was determined that there was no evidence indicating staff acted incorrectly in denying the request.

Moved by Councilman David Webb seconded by Councilman Mark Gregg to adopt:

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, DENYING THE REQUEST OF MAREK KIYASHKA (RUSSELL A. YAGEL, ESQ., AGENT) FOR AN ADMINISTRATIVE DOCK LENGTH VARIANCE IN ACCORDANCE WITH SECTION 30-1550(G) OF THE CODE OF ORDINANCES TO ALLOW A DOCK CONSISTING OF A 115-FOOT LONG WALKWAY WITH A 12.5-FOOT BY 12-FOOT (150 SQUARE FOOT) TERMINAL PLATFORM FOR A TOTAL LENGTH OF 127 FEET AS MEASURED FROM THE MEAN HIGH WATER LINE (MHWL), THEREBY EXCEEDING BY 27 FEET THE MAXIMUM LENGTH ALLOWED FOR DOCKS. THE SUBJECT PROPERTY IS LOCATED AT 81486 OVERSEAS HIGHWAY ON UPPER MATECUMBE KEY IN THE NATIVE RESIDENTIAL (NR) ZONING DISTRICT WITH PARCEL ID# 00404590-000000. (File No: PLAV20220062)

AYES: Councilman David Webb, Councilman Mark Gregg, Councilman Joseph B. Pinder III, Vice Mayor Henry Rosenthal, Mayor Pete Bacheler

NAYS: None

Motion passes 5-0

7:35 pm – Mayor Pete Bacheler adjourned for a ten-minute recess.

7:45 p.m. – Mayor Bacheler reconvened the meeting.

B. Appeal of Denial for Transfer of Development Rights – Native Construction **TAB_9**

Interim Village Attorney John Quick introduced the item noting the proposed TDR was denied because it did not meet the criteria due to a habitat analysis.

He asked Council to reveal any ex parte conversations applicable to Tab 9

Councilman David Webb

- None

Vice Mayor Henry Rosenthal

- Applicant Brett Ekblom

Councilman Joseph B. Pinder III

- Applicant Brett Ekblom
- Village Manager Ted Yates
- Former Planning Director Ty Harris (during his employment with the Village)

Councilman Mark Gregg (months ago before this item was slated for Council's agenda)

- Applicant Brett Ekblom
- Sandy Williams
- Environmental Resources Manager Pete Frezza
- Susan Sprunt

Moved by Vice Mayor Henry Rosenthal, seconded by Mayor Pete Bacheler to approve the request with the following conditions:

1. A minimum setback of 50' from the landward toe of the restored beach berm is required for all non-water dependent structures.
2. Applicant/owner agrees to file a Grant of Conservation Easement Agreement (GOCEA) to protect identified environmental resources on the subject property. The GOCEA shall at minimum cover the area of the restored beach berm from the Mean High Water line (MHW) to 40 feet landward of the MHW line for the entire width of the property. The area of GOCEA shall be a minimum of 4,000 square feet in size. The GOCEA shall be completed pursuant to the satisfaction of the Village Attorney. The GOCEA shall be recorded as a declaration of covenants and restrictions to run with the land in perpetuity.
3. Applicant/owner agrees to submit a plan for the development of the property which limits development to that portion of the property not containing existing or proposed environmental resources. The plans for the proposed single-family residence shall be submitted for review and approval to the Department of Planning and Development Services prior to the issuance of any permits.
4. Applicant/owner agrees to restore the disturbed beach berm area meeting, at minimum, the below criteria:
 - a. Obtain and landscaping permit from the Village prior to restoration activities.
 - b. All restoration shall be completed prior to the issuance of a Certificate of Occupancy for the principal structure.
 - c. Only approved sand to be used on sea turtle nesting beaches shall be used. A screening report and sample shall be submitted to and approved by the Village Biologist prior to placement on the property.
 - d. The waterward side of the berm shall begin at the MHW line.

- e. The minimum size of the berm shall be: five (5) feet in height above existing grade with a 5:1 slope on both the waterward and landward slopes; 40 feet in depth as measured from waterward to landward; extend the entire width of the property (approximately 100 feet).
- f. The construction of the berm shall be approved by the Village Biologist via site inspection prior to any planting activities.
- g. The berm shall be planted with a minimum of:
 - i. Eight (8) canopy trees, spaced evenly, consisting of two (2) Sea grape trees and six (6) green buttonwood trees. Canopy trees shall be a minimum of eight (8) feet in height at the time of installation.
 - ii. 14 understory trees, spaced evenly, staggered from the canopy trees. A minimum of five (5) different species shall be planted with no more than three (3) of any one species. The species shall be selected from the approved list (attached). Understory trees shall be a minimum of six (6) feet in height at the time of installation.
 - iii. 20 shrubs, spaced evenly, staggered from the canopy and understory trees. A minimum of three (3) different species shall be planted with no more than 10 of any one species. The species shall be from the approved list (attached). Shrubs shall be a minimum of three (3) feet in height at the time of installation.
 - iv. 40 ground cover plants, spaced evenly, staggered from all trees and shrubs. A minimum of four (4) different species shall be planted with no more than 10 of any one species. Ground covers shall be a minimum of one gallon in size at the time of installation.
- h. All plantings shall be guyed or staked at the time of installation. All support materials shall be removed once the plantings are established.
- i. All plantings shall meet 100% survivorship for a period of two (2) years. Any dead material shall be replaced during the two-year period. The two-year period shall begin once all planting is completed and inspected by the Village Biologist.
- j. The entire subject property shall remain invasive exotic free for the two-year survivorship period.
- k. Applicant/owner shall have a maximum of 30 days to remove and/or treat invasive exotic vegetation once identified and notified by the Village. Failure of the Applicant/owner to act within the 30-day period shall be considered a violation of the conditions of approval and is subject to Code Compliance action.
- l. The Village maintains the right to access and inspect the property from the time of the restoration (landscape) permit issuance through the end of the two-year survivorship period.

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING ADMINISTRATIVE APPEAL NO. PLADA20220127-JAT FILED BY NATIVE CONSTRUCTING CONTRACTING, INC. & ISLAMORADA REALTY INVESTMENT TRUST RELATING TO AN ADMINISTRATIVE DECISION AND INTERPRETATION BY THE DIRECTOR OF PLANNING (DENIAL OF A TRANSFERABLE DEVELOPMENT RIGHT) FOR PROPERTY FORMERLY LOCATED AT 74960 OVERSEAS HIGHWAY (CURRENT REAL ESTATE NUMBERS 00394481-002200 AND 00394481-002100) AND 77481 OVERSEAS HIGHWAY (REAL ESTATE NUMBER 00397120-00000), ON LOWER MATECUMBE KEY, ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA,

AS LEGALLY DESCRIBED IN EXHIBIT "A"; AND PROVIDING FOR AN EFFECTIVE DATE

AYES: Councilman Mark Gregg, Councilman Joseph B. Pinder III, Councilman David Webb, Vice Mayor Henry Rosenthal, Mayor Pete Bacheler

NAYS: None

Motion passes 5-0

XII. RESOLUTIONS

- A.** Resolution Approving Work Authorization No. 1 with Cyriacks Environmental Consulting Services, Inc. for a Land Use & Habitat Mapping Project **TAB_10**

Moved by Councilman David Webb, seconded by Councilman Mark Gregg to adopt:

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING WORK AUTHORIZATION NO. 1 WITH CYRIACKS ENVIRONMENTAL CONSULTING SERVICES INC. FOR A LAND USE & HABITAT MAPPING PROJECT; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE WORK AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE

AYES: Councilman Mark Gregg, Councilman Joseph B. Pinder III, Councilman David Webb, Vice Mayor Henry Rosenthal, Mayor Pete Bacheler

NAYS: None

Motion passes 5-0

- B.** Resolution Approving Agreement with Attention Media, LLC. for a Social Media Outreach Program and Other Related Services **TAB 11_**

Moved by Councilman David Webb seconded by Mayor Pete Bacheler to adopt:

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING AN AGREEMENT WITH ATTENTION MEDIA, LLC, TO PROVIDE A SOCIAL MEDIA OUTREACH PROGRAM; APPROVING A WAIVER OF COMPETITIVE BIDDING; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE ANY AGREEMENTS; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE

AYES: Councilman Mark Gregg, Councilman Joseph B. Pinder III, Councilman David Webb, Vice Mayor Henry Rosenthal, Mayor Pete Bacheler

NAYS: None

Motion passes 5-0

- C.** Resolution Approving Final Ranking and Recommendation of the RFP 22-11 **TAB _12**
Evaluation Committee for Selection of a Contractor for the Emergency Backup
Power Project for Islamorada Fire Stations and Approval of an Agreement

Moved by Councilman David Webb, seconded by Councilman Joseph B. Pinder III, to adopt:

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE
OF ISLANDS, FLORIDA, APPROVING THE FINAL RANKINGS AND
RECOMMENDATIONS OF THE RFP 22-11 EVALUATION COMMITTEE FOR
SELECTION OF A CONTRACTOR TO COMPLETE THE EMERGENCY
BACKUP POWER PROJECT FOR ISLAMORADA FIRE STATIONS;
AUTHORIZING THE VILLAGE MANAGER AND VILLAGE ATTORNEY TO
NEGOTIATE AN AGREEMENT FOR THE REQUESTED SERVICES;
AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT;
AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS;
AND PROVIDING AN EFFECTIVE DATE**

AYES: Councilman Mark Gregg, Councilman Joseph B. Pinder III, Councilman David Webb,
Vice Mayor Henry Rosenthal, Mayor Pete Bacheler

NAYS: None

Motion passes 5-0

XIII. MOTIONS

- A.** Motion to appoint Village Canvassing Board Members for the November 8, 2022 **TAB _13**
General Election

Moved by Councilman David Webb, seconded by Mayor Pete Bacheler to appoint Village
Canvassing Board Members for the November 8, 2022 General Election

AYES: Councilman Mark Gregg, Councilman Joseph B. Pinder III, Councilman David Webb,
Vice Mayor Henry Rosenthal, Mayor Pete Bacheler

NAYS: None

Motion passes 5-0

- B.** Motion to Rescind Ordinance 22-05 - Vessel Exclusion Zone Amendment **TAB X**

Moved by Councilman David Webb seconded by Vice Mayor Henry Rosenthal to Rescind the
motion approving the Ordinance modifying the Vessel Exclusion Zone off of Port Antigua and
White Marlin Beach which was adopted at the meeting on October 6, 2022

AYES: Councilman David Webb, Vice Mayor Henry Rosenthal, Councilman Mark Gregg,
Councilman Joseph B. Pinder III, Mayor Pete Bacheler

NAYS: None

Motion passes 5-0

XIV. ADJOURNMENT

Moved by Councilman Joseph B. Pinder III to adjourn the meeting at 9:43 p.m.



Marne McGrath, Village Clerk