



Islamorada, Village of Islands

REGULAR VILLAGE COUNCIL MEETING

June 13, 2024 - 5:30 PM
Founders Park Community Center
87000 Overseas Highway
Islamorada, FL 33036

MINUTES

I. CALL TO ORDER / ROLL CALL

Mayor Joseph B. Pinder III called the meeting to order at 05:33 PM

PRESENT: Council Member Mark Gregg, Council Member Elizabeth Jolin,
Council Member Henry Rosenthal, Vice Mayor Sharon Mahoney,
Mayor Joseph B. Pinder III

ABSENT:

II. PLEDGE OF ALLEGIANCE

Mayor Pinder asked Ty Harris to lead the Pledge of Allegiance and Pastor Tony Hammon started the meeting with a brief prayer.

III. AGENDA: Requests for Deletion / Emergency Additions

Vice Mayor Sharon Mahoney asked to add discussions on Deputy Julian Garcia's upcoming fundraiser and Council Liaisons in Mayor/Council Communications.

Mayor Joseph B. Pinder III asked for the Sojourn quasi-judicial hearing to be moved to the first action item - to be heard after public comment and LPA report.

IV. PUBLIC COMMENT

(This is general public comment. It provides an opportunity for the public to speak about matters not scheduled elsewhere on the agenda. The mayor opens public comment on agenda items throughout the meeting.)

Mayor Joseph B. Pinder III opened public comment.

Speakers included:
Van Cadenhead

There being no one else wishing to speak, Mayor Pinder closed public comment.

V. CITIZENS' ADVISORY COMMITTEE REPORTS & APPOINTMENTS

A. Local Planning Agency Report - Deb Gillis, Chair - TAB A

LPA Chair Deb Gillis provided an update on items recently considered by the Committee.

B. QUASI-JUDICIAL - Ordinance Amendment Considering the Request of Sojourn South LLC to Amend the Future Land Use Map of Parcel 00394480-000108 - First Reading - TAB H (Jennifer DeBoisbriand , Planning Director)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF TY HARRIS PA AGENT FOR SOJOURN SOUTH LLC, TO AMEND THE VILLAGE'S FUTURE LAND USE MAP FROM CONSERVATION (C) TO MIXED USE (MU) FOR THE SUBJECT PROPERTY, LOCATED ON LOWER MATECUMBE KEY, WITH REAL ESTATE NUMBER 00394480-000108, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMERCE; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMERCE.

Moved up to be heard after Tab A due to an audience member who was testifying needed to catch a flight.

It was determined that items H and I were companion items and would be heard together.

The Council was asked to disclose any ex parte communications:

Council Member Mark Gregg - none

Council Member Henry Rosenthal - Sue Miller

Vice Mayor Sharon Mahoney - Ty Harris in the past, no one recently

Mayor Joseph B. Pinder III - Ty Harris in the past, noted he said hello to audience members associated with the property but nothing about the request

Council Member Elizabeth Jolin - none

Planning Director Jennifer DeBoisbriand summarized the request and noted that staff recommends approval.

Ty Harris, on behalf of property owners Neil Schuster and Kerry Marsh, noted most of the property is underwater. Mr. Harris indicated the property owners were happy to comply with the LPA's recommendation for commercial fishing and dockage.

Mayor Pinder called for testimony first from speakers in favor of the requests and then from those opposed:

Neil Schuster

Owen Marimon

Frank Cabrera

Donna Cabrera
Van Cadenhead

There being no one wishing to provide testimony opposing the request, Mayor Pinder closed public testimony.

After significant Council deliberation, Council Member Mark Gregg moved to approve the request with the amendment to create a commercial fishing special area with limited uses in the commercial fishing zoning district as well as docking facilities with the additional instructions to bring back language to address the docking issues, mangroves and other environmental concerns.

ACTION:	Motion to Approve with the amendment to create a commercial fishing special area with limited uses in the commercial fishing zoning district as well as docking facilities with the additional instructions to bring back language to address the docking issues, mangroves and other environmental concerns. item V.B. by Mark Gregg second by Sharon Mahoney; Motion passed with a 5:0 vote
AYES:	Mark Gregg, Elizabeth Jolin, Henry Rosenthal, Sharon Mahoney, Joseph B. Pinder III
NAYS:	None
ABSTAIN:	None

- C. QUASI-JUDICIAL** - Ordinance Amendment Considering the Request of Sojourn South LLC to Amend the Zoning Map for Parcel 00394480-000108 - **First Reading - TAB I** (Jennifer DeBoisbriand , Planning Director)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF TY HARRIS PA AGENT FOR SOJOURN SOUTH LLC, TO AMEND THE OFFICIAL ZONING MAP FROM CONSERVATION (C) TO COMMERCIAL FISHING (CF) FOR THE SUBJECT PROPERTY, LOCATED ON LOWER MATECUMBE KEY, WITH REAL ESTATE NUMBER 00394480-000108, AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMERCE; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMERCE

As companion requests, the quasi-judicial hearing for this item was held during the hearing for the previous item.

Ty Harris requested that the comments he made on the previous item be incorporated into the record for this item.

ACTION:	Motion to approve item V.C. by Mark Gregg second by Sharon Mahoney; Motion passed with a 5:0 vote
AYES:	Mark Gregg, Elizabeth Jolin, Henry Rosenthal, Sharon Mahoney, Joseph B. Pinder III
NAYS:	None
ABSTAIN:	None

VI. MAYOR / COUNCIL COMMUNICATIONS

A. Developmental Review Committee (Council Member Jolin) - MOVED FROM TUESDAY MEETING

Council Member Elizabeth Jolin asked Council's input on creating a Developmental Review Committee. Village Manager Rob Cole noted that the pertinent management staff were already coordinating and providing input on development projects. He suggested adding that review to the council communication to assure the Council and the community that the team has reviewed and approved requests. Council agreed with Mr. Cole's suggestion.

B. Fundraiser for Deputy Julian Garcia (Vice Mayor Sharon Mahoney)

Vice Mayor Sharon Mahoney promoted the upcoming benefit on June 23 at Islander Resort from noon - 6pm for MCSO Deputy Julian Garcia.

C. Council Liaison Discussion (Vice Mayor Mahoney)

Vice Mayor Sharon Mahoney briefly revisited the appointments made at the last meeting asking to liaise with the Land Acquisition Advisory Committee instead of the Near Shore Water Regulation Committee. Council Member Mark Gregg agreed but noted he did not want to serve on Near Shore.

VII. VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS

Planning Director Jennifer DeBoisbriand noted she was asked to address the status of Planning items on the After Action Report. She referenced there were overlapping policy decisions that interact with our Comp Plan and that every decision they make comes from the Comp Plan. She referred to the RFP to update the Comp Plan which was currently out and closing July 11. Ms. DeBoisbriand provided a comprehensive overview of the work the department is doing.

Council took up the question of changing the August 6 Regular Village Council Meeting so that Council Member Gregg could attend. It was decided to change that meeting to Wednesday, August 7 and keep the Land Use Council Meeting on Thursday, August 8 as scheduled.

VIII. RESOLUTIONS

A. Reservation of BPAS Affordable Allocations for Woods Avenue Development - **TAB B (Jennifer DeBoisbriand , Planning Director)**

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, ESTABLISHING
AUTHORIZATION FOR THE RESERVATION OF BUILDING
PERMIT ALLOCATION SYSTEM (BPAS) AFFORDABLE
DWELLING UNIT ALLOCATIONS FOR AWARD TO THE
PROPOSED WOODS AVENUE DEVELOPMENT; AND
PROVIDING FOR AN EFFECTIVE DATE**

Mayor Joseph B. Pinder III opened public comment.

Speakers included:
Van Cadenhead

There being no one else wishing to speak, Mayor Pinder closed public comment.

Lindsey Fast from Habitat for Humanity confirmed that Habitat was prepared to construct 8 single-family one-bedroom/one-bath homes on the property should it become available.

Council Member Elizabeth Jolin made a motion to approve to defer this item and have staff come back with a solution for the early out affordable allocations on this and the Machado properties.

Council agreed to move up the quasi-judicial hearings as people were waiting. Tabs F, G and J were moved up on the agenda to reflect this change.

ACTION:	Motion to Approve to defer and have staff come back with a solution for this and the Machado properties item VIII.A. by Elizabeth Jolin second by Mark Gregg; Motion passed with a 3:2 vote
AYES:	Mark Gregg, Elizabeth Jolin, Henry Rosenthal
NAYS:	Sharon Mahoney, Joseph B. Pinder III
ABSTAIN:	None

IX. QUASI-JUDICIAL

- A.** Resolution Considering the Request from MM 82.748 (Dolphins Plus Oceanside Marine Mammal Responder, Inc.) for a Major Conditional Use and an Administrative Variance - **TAB F** (Regine Charles-Bowser, Principal Planner)

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE
REQUEST OF DOLPHINS PLUS OCEANSIDE MARINE MAMMAL
RESPONDER, INC. ON BEHALF OF MM 82.748 LLC FOR MAJOR
CONDITIONAL USE APPROVAL FOR THE CHANGE OF USE
FROM EXISTING RETAIL STORE TO A VETERINARY HOSPITAL
“DOLPHINS PLUS MARINE MAMMAL RESPONDERS CENTER”
(DPMMR), COMBINED WITH CONSIDERING THE REQUEST FOR**

AN ADMINISTRATIVE VARIANCE APPROVAL FOR 8 PARKING SPACES, FOR THE PROPERTY LOCATED AT 82748 OVERSEAS HIGHWAY ON UPPER MATECUMBE KEY WITHIN THE VILLAGE CENTER (VC) ZONING DISTRICT, WITH REAL ESTATE NUMBER 00404470-000100 AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS RESOLUTION TO THE FLORIDA DEPARTMENT OF COMMERCE AND PROVIDING AN EFFECTIVE DATE.

Council was asked to disclose any ex parte communications:

Mayor Joseph B. Pinder III - Ty Harris

Council Member Mark Gregg - Ty Harris

Vice Mayor Sharon Mahoney - Ty Harris

Council Member Henry Rosenthal - no one

Council Member Elizabeth Jolin - no one

Planning Director Jennifer DeBoisbriand stated that staff recommended approval with the ten conditions listed in the packet and, further, sees no issue with the variance of 8 parking spaces.

Ty Harris, on behalf of the applicant, noted they were open to adding a condition to address a potential lot line issue. He indicated that injured wild dolphins are currently euthanized as there is no rescue facility anywhere in the the Keys. The rescue facility will not be open to the public and is not intended to be a long-term rehabilitation facility.

Mayor Pinder called for testimony first from speakers in favor of the requests and then from those opposed:

There was no one wishing to speak for or against the project.

There being no one wishing to testify, Mayor Pinder closed testimony.

Art Cooper answered questions of Council, noting that the retail space would generate operating costs and that injured dolphins would not be publicly displayed.

ACTION: Motion to approve with additional condition item IX.A. by Elizabeth Jolin second by Mark Gregg;

Motion passed with a 5:0 vote

AYES: Mark Gregg, Elizabeth Jolin, Henry Rosenthal, Sharon Mahoney, Joseph B. Pinder III

NAYS: None

ABSTAIN: None

- B.** Resolution Considering the Administrative Appeal Regarding 75131 Overseas Highway - **TAB G** (Jennifer DeBoisbriand , Planning Director)

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, CONSIDERING
ADMINISTRATIVE APPEAL NO. PLADA20240104 FILED BY
BARBARA EDGAR (APPELLANT) RELATING TO AN
ADMINISTRATIVE DECISION AND INTERPRETATION BY THE
DIRECTOR OF PLANNING (RECONSIDERATION OF DWELLING
UNIT DETERMINATION) FOR PROPERTY LOCATED AT 75131
OVERSEAS HWY, HAVING REAL ESTATE NUMBER 00398880-
000000, ON LOWER MATECUMBE KEY; AS LEGALLY
DESCRIBED HEREIN; AND PROVIDING FOR AN EFFECTIVE
DATE**

Council was asked to disclose any ex parte communications:

Council Member Mark Gregg - Barbara Edgar
Council Member Henry Rosenthal - Barbara Edgar and her daughter
Mayor Joseph B. Pinder III - Barbara Edgar and her daughter
Vice Mayor Sharon Mahoney - Barbara Edgar
Council Member Elizabeth Jolin - no one

Interim Village Attorney John Quick noted the question at hand was whether the Planning Director had the authority to make a determination on the application. It was noted that the Village Council in 2005 decided to deny the application. However, new information had come to light to prompt Ms. Edgar to reapply. There is no provision in the Village Code to permit staff to override a vote of Council, even if it was many years prior. The question before the Council was not the content of the application, but if they wanted to grant the Planning Director authority to process and decide on the application.

Given the irregularity of the situation, a robust discussion on process took place. Concern was expressed that allowing this may set a precedent. Interim Village Attorney John Quick recommended that regardless of the outcome of this item, Council should direct staff to offer a Code amendment to clarify this type of situation. It was noted that the applicant doesn't have original permits as they were not required prior to 1960 when this property was constructed.

Applicant Barbara Edgar noted the property was built in 1953 and although they lost some units to a hurricane, her family never gave up the building right to the other three TDRs because her father made adjoining units of the remaining units to increase their size.

Interim Village Attorney John Quick noted the Planning Director could consider newly discovered evidence, and therefore was permitted to make a determination if the Council grants authority. He further noted that it should be emphasized that the authority was for this application only and did not imply or give authority for future similar requests.

Mayor Pinder called for testimony in favor:

Tony Hammon
Van Cadenhead

There was no one wishing to provide testimony in opposition.

Interim Village Attorney John Quick was asked how to solve the current issue and then how to solve it in the future.

- Future - give staff direction to bring back a Code amendment to accommodate these types of issues
- Now - to vote yes is to adopt the resolution giving Planning Director Jennifer DeBoisbriand authority to process the application or deny it without prejudice so that the applicant may apply after the Code has been amended.

ACTION:	Motion to Approve granting the Planning Director the authority to decide on this application only item IX.B. by Sharon Mahoney second by Henry Rosenthal; Motion passed with a 3:2 vote
AYES:	Henry Rosenthal, Sharon Mahoney, Joseph B. Pinder III
NAYS:	Mark Gregg, Elizabeth Jolin
ABSTAIN:	None

- C. Public Hearing - 103 Sunshine Blvd Site Plan Notice of Intent to Issue an Approval - **TAB J** (Jennifer DeBoisbriand , Planning Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, REQUEST FOR PUBLIC HEARING RELATING TO THE PLANNING DIRECTOR'S NOTICE OF INTENT TO ISSUE SITE PLAN APPROVAL WITH CONDITIONS (PLSPR20230049); FOR PROPERTY LOCATED AT 103 SUNSHINE BLVD, ON PLANTATION KEY HAVING PARCEL NUMBER 00434700-000000; AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR THE TRANSMITTAL OF THIS RESOLUTION TO THE FLORIDA DEPARTMENT OF COMMERCE; AND PROVIDING AN EFFECTIVE DATE

Council was asked to disclose any ex parte communications:

Mayor Joseph B. Pinder III - no
Council Member Mark Gregg - no
Vice Mayor Sharon Mahoney - Socrates Isambert
Council Member Elizabeth Jolin - Socrates Isambert
Council Member Henry Rosenthal - no

Planning Director Jennifer DeBoisbriand summarized the request and noted that staff recommended denial.

It was clarified that neighbor Paula Albert-Franz requested the hearing. Ms. Albert-Franz testified that the current property owner has rented sections of the property out to various businesses. She noted the negative impact on the neighbors who have to live near the property.

Owner of Ham Seafood, Jose Martinez, was permitted rebuttal. Mr. Martinez noted he was operating a commercial fishery and processing plant. He noted the vehicles and vessels onsite were his and necessary to his operation, as were the freezers and ice makers.

Vice Mayor Sharon Mahoney moved to extend the meeting by 30 minutes at 10:00 p.m.

Mayor Pinder opened testimony to those in favor of issuing the site plan approval: Mr. Martinez's mother

Those in opposition:
Socrates Isambert
Andy Dutton

At 10:30 p.m. Council Member Mark Gregg moved to extend the meeting to 11:00 p.m. as deliberation continued.

ACTION:	Motion to deny item IX.C. by Mark Gregg second by Elizabeth Jolin; Motion passed with a 5:0 vote
AYES:	Mark Gregg, Elizabeth Jolin, Henry Rosenthal, Sharon Mahoney, Joseph B. Pinder III
NAYS:	None
ABSTAIN:	None

X. ORDINANCES

- A.** Ordinance Extension of the Temporary Moratorium on Market Rate Residential BPAS Applications - **Second Reading - TAB C** (John Quick, Interim Village Attorney)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, EXTENDING THE TEMPORARY MORATORIUM ESTABLISHED PURSUANT TO ORDINANCE NO. 23-10 RELATING TO THE ACCEPTANCE OF NEW MARKET RATE RESIDENTIAL BUILDING PERMIT ALLOCATION SYSTEM (BPAS) APPLICATIONS (WITH OR WITHOUT LAND DEDICATIONS); PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMERCE; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE

**APPROVAL OF THIS ORDINANCE BY THE STATE
DEPARTMENT OF COMMERCE.**

Mayor Joseph B. Pinder III opened public comment.

There being no one wishing to speak, Mayor Pinder closed public comment.

ACTION: Motion to approve item X.A. by Sharon Mahoney second by Elizabeth Jolin;
Motion passed with a 5:0 vote
AYES: Mark Gregg, Elizabeth Jolin, Henry Rosenthal, Sharon Mahoney, Joseph B. Pinder III
NAYS: None
ABSTAIN: None

- B.** Ordinance Amendment Relating to Variances from Minimum Lot Area Requirements - **First Reading - TAB D** (Jennifer DeBoisbriand , Planning Director)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, "LAND DEVELOPMENT REGULATIONS," OF ARTICLE IV, "ADMINISTRATIVE PROCEDURES," SECTION 30-221, "VARIANCES IN GENERAL," OF THE VILLAGE CODE RELATING TO VARIANCES FROM MINIMUM LOT AREA REQUIREMENTS WHERE WORKFORCE/AFFORDABLE HOUSING IS PROVIDED; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF COMMERCE; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF COMMERCE.

Planning Director Jennifer DeBoisbriand summarized the ordinance and noted that staff and the LPA recommended approval.

Mayor Joseph B. Pinder III opened public comment.

Speakers included:
Chris Sante

There being no one else wishing to speak, Mayor Pinder closed public comment.

Council Member Mark Gregg moved to extend the meeting for another 15 minutes as deliberations continued.

ACTION: Motion to deny item X.B. by Elizabeth Jolin second by Henry Rosenthal;

Motion passed with a 3:2 vote
AYES: Elizabeth Jolin, Henry Rosenthal, Joseph B. Pinder III
NAYS: Mark Gregg, Sharon Mahoney
ABSTAIN: None

- C. Ordinance Amending Chapter 30 "Land Development Regulations" Article II "Rules of Construction and Definitions" Relating to Fronting - **First Reading - TAB E** (John Quick, Interim Village Attorney, Jennifer DeBoisbriand , Planning Director)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 "LAND DEVELOPMENT REGULATIONS", ARTICLE II "RULES OF CONSTRUCTION AND DEFINITIONS", SECTION 30-32 OF THE VILLAGE CODE RELATING TO FRONTING; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

Council Member Gregg declared his intention to abstain from the vote on this issue.

Interim Village Attorney John Quick noted the LPA voted not to approve the ordinance as presented and suggested a different definition of fronting to mean the "boundary line of the front of a parcel touching a specified location." He clarified that fronting could be further defined as where a driveway comes out.

ACTION: Motion to Approve Attorney Quick's modification of the language and to include an explanatory diagram item X.C. by Elizabeth Jolin second by Henry Rosenthal;
Motion passed with a 4:0 vote
AYES: Elizabeth Jolin, Henry Rosenthal, Sharon Mahoney, Joseph B. Pinder III
NAYS: None
ABSTAIN: Mark Gregg

XI. ADJOURNMENT

Council Member Henry Rosenthal voted to adjourn the meeting at 11:08 p.m.