

CALL TO ORDER

A Meeting of the City Council of Marathon, Florida was held on January 10, 2017 in the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida, Mayor Zieg called the meeting to order at 5:30 p.m.

ROLL CALL - There were present:

Councilmember John Bartus

Vice Mayor Michelle Coldiron

Councilmember Steven Cook

Councilmember Mark Senmartin

Mayor Daniel Zieg, comprising a quorum

Also in attendance were:

City Manager, Chuck Lindsey

City Attorney, David Migut

City Clerk, Diane Clavier

Planning Director – Deputy City Manager, George Garrett

Ports and Marina Manager, Sean Cannon

Utilities Director, Dan Saus

Building Official John Woodson

Code Department Director, Stacy Charlton

Park and Recreation Director Jimmy Schmitt

Public Works Director, Carlos Solis

Finance Director Jennifer Johnson

Monroe County Sheriff's Office, Captain Gene Thompson

Approval of Agenda and Consent Agenda

Zieg added the following to the agenda: an airport update, community tax credit program and City Manager evaluation discussion.

MOTION: Cook approved the agenda as amended.

SECOND: Coldiron

Lindsey added Monroe County Sheriff's Report under City Manager Items

MOTION: Bartus approved the agenda as amended.

SECOND: Cook

With no objection from the members of Council, Zieg declared the motion approved by unanimous consent.

Martin Luther King Day Proclamation - Council presented the proclamation to Reverend Larry White.

Take Stock In Children Proclamation – Council presented the proclamation to Chuck Licis, the Program Coordinator for Take Stock In Children, Monroe along with mentors and students.

Shriners of Marathon Request to Conduct Annual Paper Drive on Feb. 18, 2017 – Lindsey explained the request. Council gave a head nod of approval for the paper drive.

TDC Resolution Discussion – Bartus explained the general idea of the bricks and mortar funding that currently the County reimburses the Cities 50 percent and the County is reimbursed 100 percent and the 5013C organizations have to have funding in advance and then be reimbursed. County Mayor Neugent explained he wants money for bricks and mortar projects to stay in the bricks and mortar fund rather than being rolled over into advertising funding. This way, the fund would build over time and gave examples of large projects such as the 7 Mile Bridge, Parks, and other big ticket items that funding could potentially be used for. Neugent suggested new rules whereby nonprofits would be eligible to get 75 percent of the money back and municipalities would be able to receive 100 percent, like the county does for its projects. Neugent explained the other municipalities had already voiced their support for the changes and he would be presenting this to the TDC and County Commission. Coldiron commented that everyone understands the importance of advertising, we need to balance both to have an equal playing field between the County and municipalities. Zieg commented it is time to take care of our residents, the next step is to go before the TDC and they have done a fantastic job. Cook also agreed it is a good idea to keep the funding in brick in mortar and spoke in favor of the resolution. Senmartin and Bartus both commented that the TDC does an amazing job, and Bartus informed everyone this would come back as a resolution on the next agenda as the County Clerk needed to do some work regarding the 501C3 organizations.

Time Limits for Public Speakers Discussion – Coldiron explained she asked to discuss this because it is sometimes awkward not being able to respond to the speakers who have questions. Bartus commented we need to make sure government is responsive but we also need rules and procedures and would like to make sure our constituents have a little more say. Cook concurred. Senmartin commented that some of the speakers are very prepared, it is hard to lay a blanket policy for all. City staff is available for questions all day. Zieg commented that the agenda and items for public hearing are noticed in the paper and the public can also speak at the planning commission.

Public Comment:

Diane Scott asked the Council to listen to the speakers no matter how long they take.

Lindsey clarified that during quasi-judicial, the public can ask the Council to ask questions on their behalf.

Migut explained what the other municipalities are doing, which is the same, but a lot more specific with more detail. We have more flexibility. Cook asked if there was a way to put in a minimum speaking time. Migut cautioned not to do this on quasi-judicial items, but we do this on other items.

Community Announcements – the community announcements were read. Bartus invited everyone to a benefit for Bob Coffee at the Hurricane. Senmartin informed everyone there was a flag receptacle in various places including City hall and there would be a flag retirement ceremony that the Boy Scouts would hold on the 28th at 5:30 pm at City Hall Oceanfront Park.

Airport update – Zieg informed everyone there would be a dedication at the airport for Dick Ramsay within the next 30 days and reported that as of December 31, 2016, there were 187 international aircraft arrivals, including 102 jets and 85 piston-engine aircraft and the facility has processed 39 private boats since opening in April of last year. Zieg also reported that we have two local charter companies starting to provide on-demand service from Marathon to Cuba, including Duck Key Charters and KeysAir Aviation.

Community Contribution Tax Credit Program Funding – Zieg reported that four of our large local companies are providing the bulk of this funding. Zieg explained the Community Contribution Tax Credit Program (CCTCP) provides a financial incentive (up to 50% tax credit or sales tax refund) to encourage Florida businesses to make donations toward community development and housing projects for low-income persons, such as Habitat for Humanity.

City Manager Evaluation – Zieg asked Lindsey to provide a form with the annual report within the next week.

City Manager Report

Parks and Recreation Report – Schmidt gave an overview of his report, and informed everyone that even though there was some inclement weather, the recent Celtic Festival was successful and reminded everyone of the family fun fest coming up.

Wastewater Utility Departmental Report – Saus gave an overview of his written report and explained we received one odor complaint in December the collection system. It was from the remote vacuum station located at US1 and Aviation Blvd. The odor control media

there was replaced only 5 months ago and was not scheduled for replacement until next July but 2 weeks ago we realized the odors were increasing and we went ahead and ordered the new media. Saus reported that it would be installed as soon as it is received.

Building Department Report – Woodson explained the community rating system and what that meant for our property/casualty insurance. Woodson informed everyone all of the permit techs were certified in 2016 and after hours inspections were accommodated as well in 2016. The Council congratulated staff on the high rating of the Insurance Services Office (ISO) report and thanked them for their hard work. Lindsey also mentioned that Woodson helped conduct over 10,000 inspections in 2016.

Public Comments:

Diane Scott – Commented that she felt the City needed its own police department and spoke against the Sheriff's office.

Public Works Report – Solis gave an overview of his written report and informed every one of the upcoming projects of replacement of the Coco Plum restrooms and construction of a dumpster enclosure at the beach to accommodate a recycle dumpster. Solis informed everyone he was rejecting the bids for the US1 landscaping project since there was only one respondent who was substantially higher than the budgeted amount. Solis explained the project would be modified and then rebid.

Marathon Substation Monroe County Sheriff's Report – Captain Thompson provided an overview of his written report including areas of concern. Thompson reported that there were over 37,000 calls for service, 5,726 traffic stops, 235 zone improvements, 1653 neighborhood patrols, 559 arrest were made, 170 notice to appears were issued and 53 criminal traffic citations were issued in 2016. The Council thanked the Sherriff's office on the great job they all do to make our community a better place and assisting our residents.

Community Development Block Grant Proposed Application and Fair Housing Presentation – Lindsey explained this hearing is held to outline the type of grants that are possible, and to choose the category for the application. Lindsey explained the CATF and staff are recommending the Council move forward with the application for rehabilitation, which assists low and moderate income residents with physical improvements that address code, safety and other rehabilitation items. Lindsey also explained the Fair Housing Act and our Ordinance 2010-09 which provides for remedies for those discriminated against.

Zieg called for public comment; hearing none closed public comments

MOTION: Coldiron moved to accept the Housing Rehabilitation as recommended by the CATF committee and to proceed with the application.

SECOND: Bartus

Vote of the Motion:

Yes: Coldiron, Bartus, Cook, Senmartin, Zieg

No: None

Vote on the Motion: 5 Yes, 0 No, 0 Absent, 0 Abstain

Resolution 2016-111, A Request To The City Council Of The City Of Marathon By Ronald J. And Ronald G. Konrath, To Abandon A Portion Of A Public Right-Of-Way Subject The Reversionary Provisions Of Section 26-3 (C)(2), "Reversionary Provisions Of Plat" For Property Located On Wester Road In Meads Subdivision, West Of 43rd Street; Described As Part Of Mead Lane Adjacent To And West Of Lots 1, 2, 3, 4, & 5, Block 1, Mead Subdivision Plat Book 2, Page 115, Monroe County, Florida; Having Real Estate Number 00327690-000000. Nearest Mile Marker 49.5

Senmartin informed everyone he had negotiated purchasing of the Frank Smith property, but those negotiations are dead and this will not affect his vote.

Garrett explained the City's Code of Ordinances added provisions which grant specific rights to those within subdivisions for which there are reversionary clauses in the original plat of the subdivision. These provisions are also pursuant to F.S. 177.085. Therefore, a reversionary clause in a plat typically requires the reversion of public holdings in a right-of-way to adjacent owners who own land within the boundaries of the plat. Garrett explained a super majority was needed and recommended approval

Attorney Frank Greenman on behalf of the requestor spoke for the approval and outlined the benefits to the City. Greenman also informed everyone the Konrath's plan is to erect a wall, and install a French drain for runoff due to cleaning of the trucks. Greenman reported that if there are any environmental issues, the property owner is liable; and at this time, there are three owners; including the City. Greenman asked the Council to consider the staff report and approve with the conditions of the easements.

Bartus questioned if DEP was monitoring the property. Greenman responded that they were and there were no violations that he was aware of.

Attorney Chris Waldera on behalf of Frank Smith objected to the abandonment. Waldera argued that Mead Lane had been used as a right of way and then a gate was installed. Waldera argued that the abandonment would be detrimental to Mr. Smith because FDEP notified him of contamination and Mead Lane is a buffer.

Greenman Rebuttal: Greenman reported that the gate that was installed was permitted a lot longer, as utility poles have been there since at least 1947 when people lived there it was a bike path. No one was using Mead Lane. Greenman reported that there was no evidence of Marathon Garbage Service contamination and environmental damage is not part of the criteria to base the decision on.

Public Comments

Diane Scott – explained she was speaking as a representative of the church and asked that the environmental damage be checked out.

Senmartin commented that the property owners have been going back and forth for a long time and suggested a simple fix of splitting the road down the middle. Senmartin commented that he felt the City should not abandon the road, as there is no benefit to the City. Cook commented that we are here to look at Chapter 26, article 1 to give this back to the owner or not; we are giving back trees, power poles and rubble. Coldiron asked for a fact check if the City abandon's the road, does that take the City off the hook for liability? Migut explained there were over 1000 pages of the statute, but it is likely. Coldiron asked if we abandon this, it can go on the tax rolls. Migut replied it could. Zieg asked if the Konrath's would pledge to build a wall. The answer was yes, and Greg Konrath explained it was the intent to build a wall. Bartus asked that this be a condition along with the easement.

MOTION: Cook moved to approve the request, retaining easements and including a wall to be placed as a condition.

SECOND: Coldiron

Yes: Cook, Coldiron, Bartus, Zieg

No: Senmartin

Absent: None

Abstain: None

Vote on the Motion: 4 Yes, 1 No, 0 Absent, 0 Abstain

Quasi-Judicial Public Hearing

Resolution 2017-01, Consideration Of A Request By Seaward Properties LLC For A Development Agreement, Pursuant To Chapter 102, Articles 8 Of The City Of Marathon Land Development Regulations ("The Code") Entitled "Development Agreement", Authorizing The Development Of Forty-Five (45) One, Two And Three Bedroom Affordable Apartments And Ten Market Rate Single Family Residences On Properties Located At 8700 Overseas Highway, Which Are Legally Described As Part Of Lot 4, Key Vaca, Monroe County, Florida, Having Real Estate Numbers 00101050-000000 & 00101050-000100. Nearest Mile Marker 51.5.

Bartus, Cook, Senmartin and Zieg stated they had exparte communications, but those communications would not affect their vote. Coldiron did not have exparte communications.

Garrett explained the background on the item. Bartus questioned the street width and how we were addressing the traffic onto 88th Street. Garrett replied developer was willing to provide additional ingress/egress, and this was one of the conditions; both right of ways are 20 ft.

Attorney Tom Wright, agent for Seward highlighted condition 3 which reads "Revisions to site ingress and egress shall be considered and revised as possible to accommodate an access from the affordable housing project component onto 86th and 88th Streets. An easement shall be granted on 86th and 88th Streets to provide wider right-of-way access to

U.S. 1. The width and length of the easement shall be determined and mutually agreed upon by the Applicant and the City prior to final approval of any building permits. The Applicant shall work with City and FDOT staff to consider options for U. S. 1 westbound access to the site. Work with City and FDOT staff to consider westbound egress from the project site.”

Public Comments:

James Fitzek – spoke of his concerns of access onto 88th Street from the apartments. Garrett explained there was a site plan version that shows the revision. Fitzek objected to the site plan because of a U-turn on US1, as well as there was no fencing and asked for more consideration for buffering.

Dan McGuire – asked the Council to delay their decision until we all have the same information, such as the other site plan with the conditions that were approved.

Janet McGuire – commented that the previous developer promised a wall and spoke against the proposed plan as both 86th and 88th Streets are dead end streets.

Gary Kindell – commented that this area is becoming busy and crowded and spoke against the ingress and egress.

Doug Enger – spoke regarding traffic on 88th Street when the Church services end and spoke against not having a fence or barrier.

Zieg commented that at the last meeting we addressed all of the concerns of ingress and egress and fencing. Senmartin commented that there was a buffer between the driveway and the last property of 15-20 ft. Senmartin asked that the applicant work with the neighbors concerning headlights, but he felt this was the best project as far as use of space to come forward, only concerns were traffic onto US1. Coldiron clarified that the Council did make these conditions, and wished it was in the report. There was an alternate option of moving the trash receptacles from 86th Street and adding an access point and an option of a loop access and fencing. Cook commented that he was encouraged by the amount of ingress and egress which was his concern, but if we get additional access from various places it would be helpful. Bartus agreed, we did make this clear at the last meeting, the residents shared their concerns and we tried to minimize the U-turn. Based upon the presentation from the applicant, it will be a very nice neighborhood. Cook commented that the people that will live here already do, they are working at our hospitals and grocery stores as an example.

Peter Rosasco – explained his family has been in the Keys since the 1800’s and he is part of the community. Rosasco explained he is trying to provide housing that is better than substandard. Rosasco informed everyone his office was on 80th Street and he was available to work with the neighbors.

MOTION: Coldiron moved approval with the conditions stated including the consideration of a 24 ft. roadway, loop and landscaping fence and affordable home access on 86th Street.

SECOND: Bartus

Vote of the Motion:

Yes: Coldiron, Bartus, Cook, Senmartin, Zieg

No: None

Absent: None

Abstain: None

Vote on the Motion: 5 Yes, 0 No, 0 Absent, 0 Abstain

Ordinances for First Public Hearing

Ordinance 2017-01, Imposing A Temporary Moratorium On The Opening of Any New Marijuana Dispensing Facilities Or Medical Marijuana Treatment Centers Within the City of Marathon For A Period Of One Hundred and Eighty (180) Days From The Date Of Adoption Of This Ordinance; Providing For The Repeal Of All Code Provisions And Ordinances Inconsistent With This Ordinance; Providing For Severability; And Providing For An Effective Date.

Migut summarized the changes to the code and explained that Amendment 2 has passed and the Department of Health has six months to create the regulations and nine months to put the rules and regulations into effect. When staff looked at this timeline, we recommended a six month moratorium.

Zieg called for public comment, and hearing none, closed public comments.

MOTION: Bartus moved approval of Ordinance 2017-01

SECOND: Cook

Vote of the Motion:

Yes: Bartus, Cook, Senmartin, Coldiron, Zieg

No: None

Absent: None

Abstain: None

Vote on the Motion: 5 Yes, 0 No, 0 Absent, 0 Abstain

Resolutions

* **Resolution 2017-02**, Denying A Request By WOB Beneficial Development 16, LLC For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Conditional Use Permits,” Further, Denying The Request To Develop Of Forty-Six (46) Affordable Housing Residences On Properties Located At 11901 Overseas Highway, Which Is Legally Described As Part Of Govt. Lot 3, Crawl Key No. 1, Section 5, Township 65 South, Range

33 East, Monroe County, Florida, Having Real Estate Number 00100740-000000. Nearest Mile Marker 53.

* **Resolution 2017-03**, Approving Minor Revisions To The Interlocal Agreement Between Monroe County And The City Of Marathon, Approved Originally Pursuant To Resolution 2016-067 And Then 2016-124, Transferring Affordable Housing Residential Allocations For A Project In The Name Of Multiple Corporations Callianasa Corp, Key Vaca LLC, Driftwood LLC, CB Schmitt Real Estate Company, Inc., And Twenty-Third Street, LLC; And Providing An Effective Date.

Citizens' Comments:

Diane Scott – spoke regarding Martin Luther King Day and the bus stop.

Council Comments

Councilmember Senmartin thanked the Council for the gavel and wished his wife a happy birthday. Senmartin also reminded everyone of the flag retirement ceremony on the 28th.

Councilmember Cook wished everyone a happy new year.

Councilmember Bartus invited everyone to the Bob Coffee Benefit.

Vice Mayor Coldiron thanked Marathon Fire Rescue, Monroe County Sheriff's Office and staff for their efforts on the Wounded Warriors event as well as Deana with GSG for her excellent work on the grants. Coldiron challenged everyone to volunteer all year, not just Martin Luther King Day challenge.

Mayor Zieg wished everyone a happy new year.

ADJOURNMENT

With no further business to come before the Council, Mayor Zieg adjourned the meeting at 8:28 pm by unanimous consent.

I certify the above represents an accurate summary of the regular Council meeting of January 10, 2017.

Diane Clavier, City Clerk

Date