

**CALL TO ORDER** - A Meeting of the City Council of Marathon, Florida was held on February 26, 2019 in the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida, Mayor Bartus called the meeting to order at 5:30 p.m.

The Pledge of Allegiance was recited.

**ROLL CALL - There were present:**

Vice Mayor Steven Cook

Councilmember Luis Gonzalez

Councilmember Mark Senmartin

Councilmember Dr. Daniel Zieg

Mayor John Bartus, comprising a quorum

Also in attendance were:

City Manager, Chuck Lindsey

City Attorney, David Migut

City Clerk, Diane Clavier

Finance Director Jennifer Johnson

Planning Director George Garrett

Utilities Director Dan Saus

Growth Management Director, Doug Lewis

Public Works Director, Carlos Solis

Captain Don Hiller, Monroe County Sheriff's Office

Sheriff Rick Ramsay, Monroe County

Marina Director, Sean Cannon

Deputy Fire Chief, Eric Dunford

Fire Chief John Johnson

## **Approval of Agenda and Consent Agenda**

Senmartin removed Resolution 2019-19 from the consent agenda. Bartus added the Temporary Placement Permit extension as item 5C under City Council items Lindsey added a discussion item regarding Monroe County's bill regarding Apportionment of awards of damages for takings claims within an area of critical state concern under City Manager Report and Migut removed item 10 B regarding an amendment to an existing development agreement for Keys RV/Mobile Home Condominium Association as requested by the Board of Keys RV and added FDOT support on pilot program grant and the DEO Coastal Resiliency Update.

**MOTION:** Zieg moved to approve the agenda as amended.  
**SECOND:** Cook

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

## **City Council Items**

### **\* Approval of Minutes**

Community Announcements - the announcements were read. Senmartin informed everyone there would be a car show at Curry Hammock on the 17<sup>th</sup> of March. Zieg reminded everyone that Baptist Hospital numbers relating to the taxing district were due at the next meeting.

Temporary Placement Permit Extension (Bartus) Bartus explained that although this was discussed at the last meeting, he understood this was to be on this agenda wanted to make sure our ordinance was officially extended ninety days while we get an inventory of the trailers in our City.

**MOTION:** Cook moved to approve the extension  
**SECOND:** Zieg

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

## **City Manager Report**

Wastewater Utility Report – Saus informed everyone that there was an unfortunate small overflow at area four plant last evening because of a power issue to the control panel. Luckily we were scheduled to be there at night, which is unusual, because the call out did not work due to loss of power. We are looking at redundancy although the panel has already been replaced to keep this from ever happening again. The good news is it all went into our swale and we were able to clean it up and it did not pose a health hazard to the residents. Zieg questioned how many restaurants were inspected for grease traps and what the results were. Saus explained the quarterly grease trap inspection, in season, the traps fill up faster, so staff goes out every month to places, and most come into compliance.

Bartus called for a recess due to a power outage

Bartus acknowledged Sherriff Ramsay, County Commissioner Coldiron and County Attorney Bob Shillinger.

Parks and Recreation Report – Schmidt informed the Council of the successful Fishing Fun event at Crane Point Hammock and the movie ET shown at the Park both on the 23<sup>rd</sup> of February kept staff very busy, and both events were well attended. Schmidt informed everyone the Seafood Festival would be coming up soon. Zieg questioned how many attended the Coral Head Music Festival Schmidt responded they may have had a thousand participants all day. Gonzalez suggested that some of the nonprofits that would have attended the cancelled Family Fun Fest be incorporated into the City's birthday celebration event. Senmartin questioned if the Skate Park was being repaired. Schmidt explained staff was working on patches to the park.

A recess was called due to a power outage.

Marina Report – Cannon reported occupancy was up, there were 42 boats on the wait list and the dingy docks will go out to bid this week.

The meeting was interrupted by a power outage

Monroe County 50/50 bill discussion – Lindsey explained we would like the state to be a partner with us regarding any potential takings, and the County has been working on a policy bill to partner with the state. (power outage) Commissioner Coldiron explained she understood how important communication is and that doesn't mean that we always have to agree with each other, but we need to do a better job communicating with each other and gave her word that Marathon would have communication from her on issues that may affect Marathon. Bob Shillinger, County Attorney explained the background and why they thought it was important to advance the bill of shared responsibility. Shillinger gave a history of previous partnership agreements with the state and explained when the state had been a partner, the judgements and costs were less. Bartus questioned if the bill would have a source for funding. Shillinger explained the state and each government would have their own process for payment. Senmartin explained he was not happy to not be included in deeper conversations, and was not sure this was the best course of action for us, as it was not our issue. Shillinger explained that expecting the state to take one hundred percent responsibility is not obtainable and the County and municipalities would not be indemnified, and we would be held liable, especially since it is easier to satisfy a judgement with a local government than force the state to pay, and gave examples of the Citrus Canker cases.

Citizens Comments on items not on the agenda

Diane Scott – spoke regarding false reporting, complained that the music was too loud at the Coral Head Music Festival and spoke regarding Black History Month.

FDOT Support regarding Pilot Program grant – Lindsey explained that FDOT was asking for the City's support and explained the Florida Keys Connecting Overseas to Advance Safe Travel (Keys COAST) will be the first of its kind connected and automated vehicle (CAV) project being led by FDOT District

6. This pilot project will be located on the US 1 segment in Monroe County. The project will be a multi-modal corridor management project promoting safety.

DEO Meeting Update – Lindsey thanked Ken Lawson, Mario Rubio, Barbara Powell, Representative Holly Raschein and other staff discussed issues at the meeting regarding hurricane recovery, economic opportunity, vacation rentals, and affordable housing.

Coastal Resilience Update – Migut explained the City was awarded a DEP Coastal Resilience grant and we are required to update the Peril of Flood and informed everyone this Friday students from FIU will give a presentation at 1pm. Garrett explained the FIU students were operating within the grant to assist with comprehensive plan revisions and they will go over the process so far and we will get updates from them.

Doug Lewis informed the Council he recently completed an insurance audit and we have maintained a level 3. We will have the three reports requested on the 12<sup>th</sup> of March.

### **Ordinances for Second Public Hearing and Enactment**

**Ordinance 2019-02**, Creating A Share Account Plan To Amend The Retirement Plan And Trust For The Firefighters Of The City Of Marathon, Florida; Amending Section 2-103 Of The Code To Add Reference To The Share Account Plan; Providing For Conflicts; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; And Providing An Effective Date.

Migut explained there were no changes since the first reading.

Mayor Bartus called for public comments; hearing none closed comments.

**MOTION:** Cook moved approval of Ordinance 2019-02

**SECOND:** Zieg

Vote of the Motion:

Yes: Cook, Zieg, Senmartin, Gonzalez, Bartus

No: None

Absent: None

Abstain: None

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

### **Ordinances for First Public Hearing**

**A. Ordinance 2019-03** Amending The Comprehensive Plan Future Land Use Map (FLUM) Designation From Residential Medium (RM) To Mixed Use Commercial (MU-C) And Residential Medium (RM) For Part Of The Property Described As 222 99th St. Ocean, Marathon, Monroe County, Florida, Having Real Estate Number 00352210-000000; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; 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.

Garrett explained the FLUM change and the following zoning change. Zieg questioned how many affordable allocations we still have. Garrett informed everyone we had given out 182, we have 51 administrative relief permits and we have 22 affordable allocations left, which are not allocated and not part of the 300. Zieg suggested it may be more efficient to spread these permits out on twenty different lots as we just heard regarding the taking cases, which could eliminate twenty of them. Garrett agreed that could potentially diminish our liability. Gonzalez questioned if we have a list of those waiting. Garrett stated we do. Bartus stated we have an immediate need.

Victoria Cromwell, DDAI informed everyone this property was evaluated on many aspects and there were no adverse effects to the FLUM and zoning changes and requested approval.

Mayor Bartus called for public comments; hearing none closed comments.

**MOTION:** Cook moved approval of Ordinance 2019-03  
**SECOND:** Zieg

Vote of the Motion:

Yes: Cook, Zieg, Senmartin, Gonzalez, Bartus  
No: None  
Absent: None  
Abstain: None

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

**Ordinance 2019-04**, Amending The Official Zoning Map From Residential Medium (Rm) To Mixed Use (Mu) And Residential Medium (Rm) For Part Of The Property Described As 222 99th St. Ocean, Marathon, Monroe County, Florida, Having Real Estate Number 00352210-000000; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; 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

Garrett explained this was the zoning change.

Mayor Bartus called for public comments; hearing none closed comments.

**MOTION:** Cook moved approval of Ordinance 2019-04  
**SECOND:** Zieg

Vote of the Motion:

Yes: Cook, Zieg, Senmartin, Gonzalez, Bartus  
No: None  
Absent: None  
Abstain: None

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

**C. Ordinance 2019-05**, Amending Chapter 2, Article 1, Of The City Code Of Ordinances By Creating Section 2-1, "Municipal Seal," Providing For The Repeal All Ordinances Or Parts Of Ordinances Found To Be In Conflict, Providing For Inclusion In The Code Of Ordinances, Providing For Severability; And Providing For An Effective Date

Migut explained the ordinance and informed everyone a proposed seal was included, but the Council may choose to adopt this seal, or a different seal. Bartus stated we need to adopt all of our seals, the ones the fire department uses, the two Council uses, parks, marina, etc.. Migut reported that state law only allows one seal per chapter 165 FS. We could reference the others, but our ability to restrict use of the others is limited to copyright or trademark which will cost some money. We would want to choose a primary seal. Migut advised if someone in the future uses the seal to the City's detriment, we could look into trademarking the other seals, but it would be costly, so in the meantime, we could reference the other seals in the ordinance. Zieg thanked Migut for his efforts and commented that enforcement would be difficult if not impossible and reminded everyone that there are many seals, when the City receives bids, the bidding contractors typically include our seal on their documents is that legal or illegal, it does not address former official's, for instance do we need to call them and have them bring back all of their shirts, etc. Zieg stated he liked the seal on the front, but the Council needs to look at all of the seals. Senmartin stated he does not like to have laws that are not enforceable or have no teeth to it. It would be a problem if someone decided to slap a seal on the side of their car and pretend to be a code officer. Migut explained that section 1-7 of the City code allows for civil citations to be written, and a notice to appear could be written. We would have to pay the clerk of court to have this prosecuted. Zieg commented that as Senmartin alluded to, this would be impossible to enforce like some of the parking tickets. Migut explained if a problem ever arose in the future, he could also rely on the paragraph that states "All seals previously used by the city are solely reserved for use by the city, its departments, and instrumentalities, which shall maintain all rights authorized and provided for pursuant to section 165.043, Florida Statutes." If it is determined that that language is not strong enough to prevail, then we could look into trademarking. Migut felt it is a good start for a problem that has never arisen. Zieg commented that it has not been a problem, we have been a city for twenty years. Cook stated the fire department, like the police force may not use as it is illegal to begin with. Senmartin stated that we need to adopt a seal.

Mayor Bartus called for public comments; hearing none closed comments.

**MOTION:** Senmartin moved to approve and to have all of the logo's to choose from at the next meeting

**SECOND:** Bartus

Vote of the Motion:

Yes: Senmartin, Cook, Bartus

No: Gonzalez, Zieg

Absent: None

Abstain: None

Vote on the Motion: 3 Yes, 2 No, 0 Absent, 0 Abstain

**Quasi-Judicial Public Hearings –**

**A. Resolution 2019-18,** Consideration Of A Request By Mario And Kay Ferrucci For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled “Conditional Use Permits,” Authorizing The Development Of Six (6) Affordable Housing Units For Part Of The Property Described As 222 99th ST. Ocean, Marathon, Monroe County, Florida, Having Real Estate Number 00352210-000000. Nearest Mile Marker 52.

Clavier swore in speakers, all of the Council stated they all had exparte communications, but it would not affect their vote.

Garrett explained the conditional use application is for a second duplex residence on the property for a total of six and outlined the proposed conditions imposed.

Senmartin questioned where the entrance to the property was and his concern for the tight corner and asked if the entrance could be as far south as possible. Senmartin confirmed the applicants are asking for six affordable allocations, and they have two market rate on the property currently. Garret replied that was correct. Senmartin questioned if these would have the same caveat as the 300 affordable allocations we will receive from the state regarding evacuation times. Garrett replied not necessarily, they could be a part of the 22 the City has currently remaining. Senmartin questioned if we would be giving allocations to people who have existing below flood homes. Garrett stated a condition of the 300 state allocations is that they have to go to multifamily and they would have to meet flood ordinance, new or repurposed. Zieg commented that there were two market rates on the property, and they are asking for six affordable allocations, Zieg suggested giving them four affordable allocations and let them keep their two market rates or have them give market rates to the City. Senmartin stated his issue is the flooding issue. It was suggested to possibly flood proof the existing structure. Cook echoed Senmartin’s statements regarding stated the need for affordable units and flood issues. Cook asked for the same 48 hour evacuation provision as the 300.

Carlos Solis explained that it was against Florida building code to flood proof residential property, you can only flood proof commercial property.

Josh Mothner, agent for applicant spoke for approval and discussed the driveway.

Zieg questioned if Mothner’s clients would consider donating a market rates if we give them six affordable allocations. Senmartin commented he was looking for mitigation on flood. Bartus commented that there were no guarantees, every property is at risk in a storm. Mothner commented that the applicant’s tenants were back in the house quickly after Irma, they will move forward immediately. Cook verified with Mothner that there were no current code cases on the property.

Mayor Bartus called for public comments; hearing none closed comments.

**MOTION:** Cook moved approval of Resolution 2019-18 keeping the driveway setback as far to the south as possible and a 48 hour evacuation time and include the units the same as the 300 units exceptions for first responders.

**SECOND:** Gonzalez

Vote of the Motion:

Yes: Cook, Gonzalez, Senmartin, Bartus

No: Zieg

Absent: None

Abstain: None

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

### **Resolutions for Adoption**

**A. Resolution 2019-19**, Accepting The Ranking And Recommendation Of The City's Evaluation Team Of The Community Park Soccer Field Refurbishment RFP; Authorizing The City Manager To Execute A Contract With The Top Ranked Firm XGD Systems, LLC in the Amount of \$118,500.00; And Providing For An Effective Date.

Senmartin explained he removed this from consent because in the past, staff stated that they would throw out the low bid and this was seriously low. Solis explained the low bid was \$38,000 below the next bid, and the bid price was 60 percent of the score for the bid. The lowest bidder also scored the highest in all of the other areas. Senmartin questioned if the actual product was the right product, if we would close the fields periodically and if the sprinkler system was functioning. Solis responded yes to all of the questions.

Mayor Bartus called for public comments; hearing none closed comments.

**MOTION:** Zieg moved to approve Resolution 2019-19

**SECOND:** Cook

Vote of the Motion:

Yes: Zieg, Cook, Senmartin, Gonzalez, Bartus

No: None

Absent: None

Abstain: None

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

**\* B. Resolution 2019-20**, Approving The Professional Service Agreement Between The City And RS&H, Inc., For Construction Engineering and Inspection (CEI) Services For The Aviation Blvd. Multi-Use Trail Project In An Amount Not To Exceed \$163,030.00; Authorizing The City Manager To Execute The Contract And Expend Funds On Behalf Of The City; And Providing For An Effective Date.



\* C.       **Resolution 2019-21**, Approving The Professional Service Agreement Between The City And Cardno, Inc., For Construction Engineering and Inspection (CEI) Services For The Sombrero Beach Reconstruction Project In An Amount Not To Exceed \$144,240.00; Authorizing The City Manager To Execute The Contract And Expend Funds On Behalf Of The City; And Providing For An Effective Date.

**Citizens' Comments:**

Mayor Bartus called for public comments; hearing none closed comments.

**Council Comments**

Gonzalez thanked staff for putting the City first.

Zieg thanked staff and gave a history of events that happened on this day, such as the Formula One introduction of the Earth Car to increase awareness of environmental issues, and the World Trade Center Parking Garage bombing, and the last of the Marines left Lebanon.

Senmartin commented that the active shooter drill was a great class and the Fire Department did a great job, and they will put this class on for anyone for free.

Cook thanked staff, Marathon Fire, MSCO, FWC and the Legion Riders for putting the Coral Head Music Fest together.

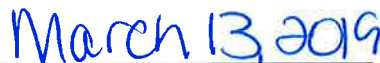
**ADJOURNMENT**

With no further business to come before the Council, Mayor Bartus adjourned the meeting at 8:13 pm by unanimous consent.

I certify the above represents an accurate summary of the regular Council meeting of February 26, 2019



Diane Clavier, City Clerk



Date