

City of Marathon  
City Council Action Minutes  
January 8, 2019 5:30 pm City Council Meeting Minutes

**CALL TO ORDER** - A Meeting of the City Council of Marathon, Florida was held on January 8, 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/Deputy City Manager George Garrett

Utilities Director Dan Saus

Growth Management Director, Doug Lewis

Public Works Director, Carlos Solis

Marina Director, Sean Cannon

Parks and Recreation Director, Jimmy Schmidt

Fire Chief, John Johnson

Monroe County Sheriff's Office, Sherriff Ramsay and Captain Hiller

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

Mayor Bartus removed item 10C (Resolution 2019-07) from the consent agenda and moved item 6D Parks and Recreation Recognition by Department of Health up to item 5C. Lindsey added Florida Keys Day update as item 6D under City Manager Report.

**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**

Animal Waste Discussion (Vice Mayor Cook) – Cook explained a citizen contacted him regarding pet waste because they felt they had no other choice than to seek out the Council to authorize an ordinance to help them resolve a conflict in their neighborhood. Cook explained he visited the property and researched other cities finding that all cities and counties in Florida had some sort of pet waste law, except Monroe County and the City of Marathon, but there are many exceptions. Cook explained we have an ordinance that covers most of the bases for what is expected of pet owners with regard to pet waste. However, he explained if we amended this it may just pit neighbor against neighbor in the daily battles over the fence. Zieg and Bartus agreed with Cook, that we should not amend the current ordinance.

Mayor Bartus recognized Sherriff Ramsay's attendance.

Parks and Recreation Recognition from Monroe County Board of Health – Emily Mutschler, Department of Health Educator Consultant presented to the City and Jimmy Schmidt a sign designating Marathon Community Park as a multigenerational park, meaning the park serves people of all ages.

Community Announcements - the announcements were read. Senmartin reminded everyone of the Wounded Warrior Ride and the warriors would be at the Fire Station on Friday and Sunday at Dolphin Research Center.

### **City Manager Report**

Parks and Recreation Report – Schmidt gave an overview of his written report and informed everyone of the upcoming Family Fun Fest on January 26<sup>th</sup> as well as Spring Camp the week of March 18<sup>th</sup>. Schmidt reported the receipt of a \$1,000 award from the Teget Foundation to assist the Parks and Recreation department in providing programs for the community. Schmidt reported that this foundation has gifted the Parks Department this award for the last few years and it is greatly appreciated.

Marina Report – Cannon reported the revenues for the Marina were coming back to normal and one hundred percent occupancy was reached this month and the Marina is now using a wait list. Cannon thanked everyone who participated in the bicycle drive this year, as 80 bicycles were given to area children for the holidays.

Request for Private Attorney-Client Session on January 22, 2019 – Migut asked the Council for a shade session pursuant to Section 286.011(8), Florida Statutes, to discuss the following two litigation cases: Grassy Key Beach Subdivision, Inc. v. the City of Marathon; pending in the Circuit Court for the Sixteenth Judicial Circuit in and For Monroe County, Florida, Case No.: 2015-CA-38-M and Grassy Key Beach Subdivision, Inc v. City of Marathon And Danise Henriquez, Monroe County Tax Collector, Case No. 2014-CA-56-M, pending in the Circuit Court for the Sixteenth Judicial Circuit in and For Monroe County, Florida. The session is estimated to last 45 minutes.

**MOTION:** Cook moved to approve the request for a shade session.

**SECOND:** Zieg

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

Florida Keys Days – Lindsey explained that he was arranging transportation for the Council to arrive in Tallahassee on the 18<sup>th</sup> and was setting meetings for that afternoon as Florida Keys Day would be held on the 19<sup>th</sup> of March and he would also schedule meetings the morning of the 20<sup>th</sup>. Bartus congratulated Lindsey on his selection by the Governor to sit on the Governor’s transition committee and thanked Lindsey for all of his hard work.

### **Quasi-Judicial Public Hearings**

**Resolution 2019-01** - Consideration Of A Request By James Ruggio, 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 Construction Of A Boat Ramp On A Developed Residential Parcel, Subject To Conditions Imposed, For Property Described As Block 1 Lot 70 Amended Plat Of Flamingo Island Estates Boot Key PB5-121, Monroe County, Florida, Having Real Estate Number 00356140-000000.

Clavier swore in speakers. Council stated they had exparte communications in the form of letters and emails but that it would not affect their vote.

Garrett explained the project, location, existing conditions and surrounding zoning and uses of the residential location. Garrett explained the permits from ACOE and DEP were obtained. Garrett informed everyone that the Planning Commission denied, based upon lack of information, the conditional use, but that staff recommended approval of the boat ramp with proposed conditions as outlined. Gonzalez questioned the expired permit and Garrett explained it was not an issue as it was extended. Senmartin stated his concerns regarding the location is optimal for a culvert and his concerns of impact regarding the intersection and removal of mangroves. Garrett explained that if the City put in a culvert, the mangroves would need to be removed. Senmartin

stated he did not like the ramp and dock configuration. Cook questioned if a concrete wall would be feasible, and questioned if too many mangroves were taken out, he would like to see a replant.

James Ruggio explained this property would be his homesteaded residence and he would be working at Fisherman's Hospital. Ruggio informed everyone the ACOE and DEP permits had been renewed and Glen Bowe Engineering designed the ramp for his two boats and no vegetation would be removed and requested approval.

Gonzalez questioned if any other ramps required City property use. Garrett explained this project would not require use of City property.

**MOTION:** Zieg moved to approve based upon the evidence and testimony provided and asked that staff add the condition for planting.

**SECOND:** Gonzalez

Vote of the Motion:

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

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

**Resolution 2019-02**, Consideration Of A Request By Holiday Inn Express & Suites For A Time Extension For Approvals Granted Pursuant To Resolutions 2014-105 And 2015-37 Pertaining To The Granting Of Twenty-Five (25) Transient Residential Units (TRUs) For A Project Approved By The City To Expand The Holiday Inn Express & Suites By A Total Of Twenty-Seven (27) Hotel Units Approved Pursuant To Resolutions 2014-61 And 2014-62 For A Conditional Use Permit And A Development Agreement Respectively; Providing That Said Conditional Use Permit And Development Agreement Were Approved For Time Extensions Pursuant To Resolutions 2017-47 And 2018-65; Providing That The Approval Of This Resolution Makes The Approved Times Frames For The Conditional Use Permit, Development Agreement And The Allocation Of Transient Residential Units (TRUs) Concurrent; Providing That Said Extension Request Is Issued For Property Which Is Legally Described As Part Of Government Lot 2, Fat Deer Key, Monroe County, Florida, Having Real Estate Numbers As Stated In The Resolution.

Clavier swore in speakers. Council stated they had no exparte communications.

Garrett reported that there were no changes to the Resolution since the first hearing.

**MOTION:** Zieg moved to approve Resolution 2019-02 based upon the testimony and evidence provided.

**SECOND:** Cook

Vote of the Motion:

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

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

**Resolution 2019-03**, Approval Of A Request By Sapodilla Holdings, LLC For A Conditional Use Permit Pursuant To Chapter 102, Articles 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Conditional Use Permits,” Authorizing The Redevelopment Of The Property Located At 7200 Aviation Boulevard As A Marina And RV Resort With 25 Spaces, Legally Described As, Part Of The Master Plat Of North Marathon Shores, Key Vaccas, Government Lot 1 Section 2 Government Lot 2 And Parts Of Government Lot 3 And The Southwest Quarter Of Section 1 Township 66 Range 32 E And Lots 18 Through 22 Schmitt Subdivision Key Vaca And Part Of Abandoned Aviation Boulevard, Having Real Estate Numbers As Stated in the Resolution. Nearest Mile Marker 51.

**Resolution 2019-04**, Approving A Request By Sapodilla Holdings, LLC For A Development Agreement Pursuant To Chapter 102, Articles 8 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Development Agreement,” Authorizing The Redevelopment Of The Property Located At 7200 Aviation Boulevard As A Marina And RV Resort With 25 Spaces, Legally Described As, Part Of The Master Plat Of North Marathon Shores, Key Vaccas, Government Lot 1 Section 2 Government Lot 2 And Parts Of Government Lot 3 And The Southwest Quarter Of Section 1 Township 66 Range 32 E And Lots 18 Through 22 Schmitt Subdivision Key Vaca And Part Of Abandoned Aviation Boulevard, Having Real Estate Numbers As Stated In The Resolution. Nearest Mile Marker 51.

Clavier swore in speakers. Council stated they had no exparte communications since the last meeting.

Garrett gave an overview of the project which consisted of 9 affordable and 6 market rate units. Garrett informed everyone the applicant reconfigured the entrance, and agreed to additional landscaping. Garrett explained that Pedro at the County Attorney office informed him that an Avigation easement would be needed and would be one of the conditions for approval which Garrett outlined. Cook questioned if there would be lighting for the parking lot. Garrett informed everyone he had not seen the final lighting plan. Cook questioned the hours of operation. Senmartin commented that he felt the directional exit flow was weak. Garrett outlined the conditions for approval.

Doug Lewis informed the Council there was one open code case, the permit was applied for but not issued and they were waiting on information regarding the contractor for the last few months. William McCain, Engineer of Record stated he had no idea the City was waiting for information.

Garrett informed everyone from what he had heard the County is willing to solve the issue regarding the right of way abandonment and who owns it.

Jim Rhyne explained he was not aware there was any issue with the permit.

Lewis explained the permit was related to the Code issue, and the Building Department cannot issue the permit without knowing who the contractor is that will be doing the work. Rhyne stated he was not noticed that there was a need for a contractor. Lewis explained because it is commercial, a licensed contractor is needed.

Betsy Philipps – spoke against the project as there are more unknowns and questioned how the neighbors will be sure their issues would be resolved, as the developer has not been a good steward. Philipps asked for landscaping for the life of the project and asked that the project be policed.

Garrett explained if the conditions are not met, they will not receive a CO, and this will be policed and enforced through the permit process.

Norman Philipps – spoke against the project and asked that additional conditions be added such as no subletting of RV's and a masonry wall to prevent runoff and light pollution as well as a sign off during the check in process that the renter will abide by rules.

David Clancey – spoke against the development because of safety issues and a history of the developer not following rules or regulations.

Shirley Singleton – spoke against the development and auto renewal language. Singleton asked for some sort of review process and no automatic renewal and hold the developer to his word.

Bartus questioned what authority the Council had to affect a management plan. Migut explained if the developer did not comply with the City code, they would go thru a code process and the development agreement would have boilerplate language that they must comply with City code.

Garrett went through the list of conditions. Zieg questioned how we issue a development agreement with a code case and open permit and explained the resident's issues and input deserves weight. Bartus questioned how many development agreements we have given with open code cases. Lindsey explained the applicant was not aware he needed a permit. Cook comment that the code case was opened a few days before the first hearing.

**MOTION:** Gonzalez moved to approve Resolution 2019-03 based upon the testimony and evidence provided.

**SECOND:** Senmartin

Vote of the Motion:

Yes: Gonzalez, Senmartin, Bartus

No: Zieg, Cook

Absent: None

Abstain: None

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

**MOTION:** Gonzalez moved to approve Resolution 2019-04 based upon the testimony and evidence provided including the condition as read by the Planning Director

**SECOND:** Senmartin

Vote of the Motion:

Yes: Gonzalez, Senmartin, Bartus

No: Zieg, Cook

Absent: None

Abstain: None

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

**Citizens' Comments:**

Diane Scott – spoke for having our own police department and that she needed two chairs.

**Ordinances for First Public Hearing**

**Ordinance 2019-01**, Amending Chapter 102, Article 15, “Temporary Placement Permits;” Chapter 103, Article 3, Section 103.15, Table 103.15.1, “Uses By Zoning District;” And Chapter 104, Article 1, Section 104.55, “Temporary Placement,’ Of The City Code Of Ordinances, To Provide Minor Modifications To Allowances For The Temporary Placement Of Recreational Vehicles, Motor Homes, Mobile Homes, Or Other Temporary Residential Units After The Impact Of A Hurricane Or Other Natural Disaster; Providing For The Repeal All Ordinances Or Parts Of Ordinances Found To Be In Conflict, And Providing For Inclusion In The Code Of Ordinances; And Providing For An Effective Date.

Garrett explained the ordinance and changes to the code. Bartus commented on the restrictions to the time was only 18 months. Cook suggested it read that as long as we are in an emergency declaration they are allowed. Migut stated he could work with Garrett to extend the timeframe and still be in compliance with FEMA regulations.

Wayne Quarberg – commented that he was in litigation with his insurance company and 18 months was not enough time.

Katrina Spelker – spoke against the 18 month timeframe.

Senmartin commented that he had spoken with other residents that were in the same boat, and the City needs to have some flexibility in the timeframe.

Bartus commented that because of FEMA issues, we cannot draw a line in the sand.

Zieg agreed, the extension should be indefinite and the Council can review every six months after the initial 18 months.

Garrett stated we can soften this and give Council the discretion to extend, we will do so and bring it back.

**MOTION:** Zieg moved to approve with the caveat as discussed with a six month review to extend the timeframe

**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

### **Resolutions for Adoption**

**Resolution 2019-05**, Modifying the City's Wastewater Rate Policy to include an Alternative Water Supply Customer rate; Authorizing the City Manager to Administer Wastewater Rate Implementation Accordingly; And Providing An Effective Date.

Saus explained this resolution would establish rates for sewer service for customers that are not connected to the FKAA water supply and other municipalities also charge a similar flat rate.

**MOTION:** Cook moved to approve Resolution 2019-05

**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

\* **Resolution 2019-06**, Approving A Contract For "Liquid Sludge Hauling And Disposal Services" To Biosolids Distribution Services, LLC In The Amount Of \$75,000.00; Authorizing The City Manager To Execute The Contract And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date.

**Resolution 2019-07**, Accepting The Ranking And Recommendation Of The City's Evaluation Team For Playground Equipment at Sombrero Beach; Authorizing The City Manager And City Attorney To Negotiate A Contract With The Top Ranked Firm Of Legacy Construction Services Group, Inc in the amount of \$133,000.00; And Providing For An Effective Date.

Schmidt explained Hurricane Irma damaged the older equipment and as a result the City requested proposals for the work with points delegated for cost, layout, material, and experience in the area. Three proposals were received, and the evaluation team ranked the proposals based on the criteria. Gonzalez questioned if an apparatus for children in wheelchairs. Schmidt stated he would look into it.

Bartus called for speakers, hearing none, closed public comments.

**MOTION:** Zieg moved to approve Resolution 2019-07

**SECOND:** Cook

Vote of the Motion:

Yes: Zieg, Cook, Gonzalez, Senmartin, Bartus

No: None

Absent: None

Abstain: None

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

\* **Resolution 2019-08**, Providing For The City Of Marathon To Become A Member Of The American Flood Coalition; And Providing For An Effective Date.

**Resolution 2019-09**, Approving An Assignment Of Development Agreement Pursuant To Section IV, W. Of The Development Agreement Between The City of Marathon And Seaward Landings, LLC (RE NO 00101050-000000) And Seaward Pointe, LLC (RE NO 00101050-000100); For Properties Located At 8700 Overseas Highway, Nearest Mile Marker 52, Which is Legally Described As Part Of Govt. Lot 4, Key Vaca, Monroe County, Florida, Having Real Estate Numbers 00101050-000000, 00101050-000100.

Garrett explained the background of the development agreement, and that this assignment would not change anything contained in the Development agreement. Senmartin stated the project started construction without permits and has code violations. Garrett explained the applications are in house and are being reviewed. Migut explained the code issues are attached to the land, and our consent to assign cannot be unreasonably withheld. The code case would not go away if this was assigned.

Tom Wright, attorney for the applicant explained he was not familiar with the code case, but his client would suffer monetarily if this was not approved.

**MOTION:** Zieg moved to approve Resolution 2019-09

**SECOND:** Gonzalez

Vote of the Motion:

Yes: Zieg, Gonzalez, Senmartin, Bartus

No: Cook

Absent: None

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Abstain:           None

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

**Citizens' Comments:**

Diane Scott asked that the bus stop be moved back to the previous location.

**Council Comments**

Gonzalez congratulated the Monroe County School System as they have two projects going on; Stanley Switlick and the new athletic complex at Marathon High School. Gonzalez wished a speedy recovery to Mike Puto.

Zieg provided a history of events that happened this month. Zieg thanked MSCO, Marathon Fire Rescue and Santa for the Christmas parade and thanked the Building and Code Departments.

Senmartin wished everyone a happy new year and reminded everyone to support the Wounded Warriors during their soldier ride on Friday.

Cook wished everyone a happy New Year and thanked staff, Fire Rescue team, MSCO deputies, and Trauma Star. Cook reminded everyone to pay attention on the road and be careful. Cook thanked staff for the new sound system and thanked Jeff Smith for helping out the Keys Coast Guard during the shutdown.

Lindsey reminded everyone that because of the shutdown, the Coast Guard may not receive their next paycheck and asked that landlords be flexible. Lindsey also mentioned that First State and Keys Federal had no fees loans available for Coast Guard personnel.

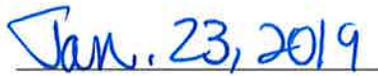
Bartus thanked Doug Lewis, Brandon Bowman, Dan Saus, and Cody Ward for the assistance with the sound system and also thanked highway patrol, and our Fire and EMS departments.

**ADJOURNMENT**

With no further business to come before the Council, Mayor Bartus adjourned the meeting at 7:58 pm by unanimous consent.

I certify the above represents an accurate summary of the regular Council meeting of January 8, 2019

  
Diane Clavier, City Clerk

  
Date