

CALL TO ORDER - A Meeting of the City Council of Marathon, Florida was held on March 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:

Councilmember Luis Gonzalez

Councilmember Mark Senmartin

Councilmember Dr. Daniel Zieg

Mayor John Bartus, comprising a quorum

Vice Mayor Steven Cook was absent

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

Marina Director, Sean Cannon

Fire Chief John Johnson

Approval of Agenda and Consent Agenda

Mayor Bartus removed the minutes from the consent agenda. Senmartin added City seal clarification as a discussion item under Council items.

Lindsey added James Malmquist 15 year service award as the first item under City Manager Report and added a request for use of the Quay property for a car show on April 27th benefitting soldiers as the last item under City manager report

MOTION: Zieg moved to approve the agenda as amended.

SECOND: Bartus

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

City Council Items

Approval of Minutes - Bartus explained on page five of 84 in the packet regarding the City Seal ordinance he did not vote and the motion failed. Bartus asked that his name be crossed out of the yes vote, and the motion would still fail 3 to 1.

MOTION: Gonzalez moved to approve the minutes as amended.

SECOND: Zieg

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

Florida Keys Day Briefing (Mayor Bartus) – Bartus informed everyone that on March 18-20, officials from local governments and organizations went up to Tallahassee for Florida Keys Day hosted by our State Representative, Holly Raschein. Bartus thanked our lobbyist, Carol Bracy for making sure we had meetings with key officials above and beyond the day's scheduled events. Bartus explained City officials met with DEM's senior staff and Deputy Director Kevin Guthrie, who are revamping their audit procedures and they have committed that the state will be a boots-on-the-ground partner and advocate for local municipalities and counties devastated by hurricanes. Bartus reported they also met with Ken Lawson, head of the Department of Economic Opportunity and discussed the progress of Rebuild Florida, the program that offers grants for people still struggling with damage to their homes. Bartus explained we should start seeing some of that funding going directly to help Keys people soon. Other DEO issues discussed were the 300 affordable housing allocations for Marathon pending appeal, and the Legislature moving forward with the 50-50 Bill and their legal and fiscal responsibility to assist with takings cases. Governor Ron DeSantis has made a serious commitment to improving water quality statewide, including fast-tracking Everglades restoration. Our Marathon delegation met with the Governor's Chief of Staff, Shane Strum, to discuss Hurricane Irma recovery issues, takings cases and the 50-50 Bill, and the continued need for state involvement as we navigate through the end of new permit allocations and buildout. Bartus reported the important takeaway this year is that decision-makers and officials in Tallahassee are listening to us and promising some real assistance in the very near future.

Migut updated Council on the 50/50 bill by explaining that he flew to Tallahassee with County Commissioner Coldiron and County Attorney Bob Shillinger to support SB 1694 which was the first committee stop. Senator Flores also voiced her support and the SB1694 passed and will now go to the second committee meeting. Senmartin thanked Lindsey who laid a lot of the groundwork for this. Gonzalez also thanked Lindsey for all of his hard work as well as lobbyist Carol Bracy.

Community Announcements – Community announcements were read. Bartus encouraged everyone to participate in the Festival of Hope event and informed everyone he donated a guitar he used in one of his videos to be auctioned off at the event.

City Seal Clarification (Councilmember Senmartin)

Senmartin: Let me start by explaining the title of my item. It's not for my clarification, it's for the City's clarification. We had a problem in the past, of the seal being used improperly and we were told that nothing could legally be done, because the City never officially adopted the seal so it didn't belong to anyone. We should actually be thankful this happened, because otherwise we would have never known that. But since then I've tried to get the Council to officially adopt the seal to keep it from being abused in the future and at the last meeting the vote was 3-1 for that very thing. The Mayor was not permitted to vote for some reason, so as we have it on the record officially as the City not wanting to adopt the seal, I decided to do it myself. So this document right here is from the State of Florida, it is my ownership and trademark of the City of Marathon's seal, I now own it. The City can consider this as its 30 day notice to cease and desist using my trademark seal on all of its buildings, cars, uniforms, letterhead, koozie cups, etc. So, I'll let that sink in for a minute, while I point out to the Councilmen who voted against protecting it that it will cost tens of thousands of dollars to remove the seals and come up with a new one at which point I would guess would be trademarked by the City for future protections.

Bartus: Mr. Attorney

Migut: Councilman Senmartin, you have duties in your official capacity and you have duties in your individual capacity. Right now, based on what I heard your action that you just described is in your individual capacity. So, I just wanted to let you know on the record, I represent you in your official capacity in the City, so I'll be looking into this, but I will have to look into it from the perspective of the City.

Senmartin: Understood.

Migut: There might be a conflict where I can't talk to you on your interest in it on a personal capacity, but in the City's capacity. If you will provide me with the documentation, I can look at this in order to update the City more as a whole to give you a legal update of the ramifications of this. I guess this is the best way I can respond to this at this time.

Bartus: Could I ask the Councilmember his intentions for the seal?

Senmartin: My intention was actually to protect it, because I've tried to explain this at previous meetings that we were leaving ourselves open for something happening. The response was, "well I've never seen someone pretend to be a code officer and put a seal on their door and walk onto a jobsite". That is clearly not the only thing that can happen by not protecting our seal. So, it would be very easy for someone to do what I just did and then hold the city hostage and say you can give me \$10,000 bucks and I will give you back your seal. I mean crazier things have happened. So, my intent was to protect it.

Bartus: Anyone else have any input? So, what was our deadline again?

Senmartin: 30 days, but I will say if they City and the Council are willing to revisit this and possibly come up with a better solution, I would be willing to sell my trademark to the City for a \$1.00 plus costs.

Bartus: You're never hit with something totally out of the blue like this until it happens. Mr. Attorney?

Migut: Your in public session right now, you all are allowed to discuss this as much or as little as you want. I would advise you to let me review this and brief you at our next meeting. I'll brief you one on one before then, but I'll also brief you as a whole 14 days from today, which should be enough time to address this matter.

Bartus: It would probably be a good idea to schedule this as an item on our next agenda, so we can discuss this. I know how I feel about the issue. I was in favor of protecting the seal from something like this happening I just didn't know something like this was going to happen so soon and from one of our own. So, let's do that and that's probably all we need to say about this at the current moment.

City Manager Report

Capt. James Malmquist 15 Year Service award – Chief Johnson, Lindsey and the Council presented Captain Malmquist with a service award plaque and thanked him for his service.

Lindsey introduced Matt Lossinger who has saved many lives while in the USCG.

Fire Rescue Department Report – Chief Johnson gave an overview of his written report and informed everyone the new engine was in service. Senmartin questioned who decides who will assist in an emergency. Chief Johnson explained it would be at the request of the agency requesting assistance.

Marina Report – Cannon explained the waiting list for the marina has been the longest the Marina had gone into March with a waiting list. Cannon informed everyone the dinghy dock pre-bid meeting was held today and bids would be due soon.

Quay property car show on April 27th benefitting soldiers – Lindsey requested approval for use of the Quay property for a car show on April 27th benefitting soldiers.

MOTION: Gonzalez moved to approve
SECOND: Zieg

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

Quasi-Judicial Public Hearing:

Resolution 2019-31, A Resolution Of The City Council Of The City Of Marathon Approving The Ranking And Allocations Of The Market Rate And Affordable Residential Building Permit Allocation System (RBPAS) For Period 2, Year 27 (January 14, 2019 To July 13, 2019); And Providing For An Effective Date.

The Clerk swore in speakers. Mayor Bartus stated he had exparte communications but it would not affect his vote. No other Councilmembers had exparte communications.

Garrett explained there were Nine (9) Market Rate General and three (3) Market Rate Owner Occupied BPAS allocations as shown in "Attachment A" and three (3) Affordable BPAS allocations "Attachment B".

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

MOTION: Zieg moved to approve Resolution 2019-31
SECOND: Gonzalez

Vote of the Motion:

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

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

Resolution 2019-32, Consideration Of A Request For A Conditional Use Permit For Anchorage Homes, LLC Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled "Conditional Use Permits" For The Development Of A Property Into twelve (12) Affordable Housing Units; Located At The End Of 64th Street; Which Is Legally Described As Part Of Tract 8 & Bay Bottom South Of & Adjacent To Tract 8 & Part Of Don - Allen Rd, Section 11, Township 66 South, Range 32, Key Vaca, Monroe County, Florida; Having Real Estate Number 00338720-000000, Nearest Mile Marker 50.5.; And Providing For An Effective Date.

Council stated they had no exparte communications.

Garrett explained the project was previously approved with condition that the Applicant provide a revised site plan to reflect the approval of only twelve residential units. The Condition Use Permit which was the subject of the Resolution was then allowed to lapse. This application reflects an interest to carry through on the original City approval. The Planning Commission reviewed the project on February 25, 2019 unanimously approved.

Senmartin explained he had concerns with the neighbors to the East and North and asked for a landscape or fence buffer

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

MOTION: Zieg moved to approve Resolution 2019-32 with added buffer condition.
SECOND: Gonzalez

Vote of the Motion:

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

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

Ordinances for First Public Hearing

Ordinance 2019-06, Amending The City Of Marathon Comprehensive Plan Modifying Chapter One, "Future Land Use," Table 1-1, "Future Land Use Densities And Intensities," To Provide For Affordable Housing Repurposing Units; 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.

Ordinance 2019-07, Amending The City Of Marathon Land Development Regulations, Chapter 103, Article 3, "Use And Intensity Tables, Table 103.15.1, " Uses By Zoning District," To Provide For Affordable Housing Repurposing Units; And 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 ordinance that would allow for repurposing of units for any place that has a motel/hotel unit could be converted to affordable and the transient would be transferred off site. Garrett explained the proposed densities (up to 25 units per acre) are in line with that allowed in other zoning districts such as Residential High (RH) and Residential Mobile Home (R-MH). There would be no net increase in the impacts associated with the conversion or repurposing of such units. There would be a net gain in affordable housing units through the use of the City's remaining affordable housing allocations.

Barbara Mitchell explained the rationale behind the request for the repurposing units.

Gonzalez questioned how many properties that have done this and may come back to ask for more units. Garrett explained it would be different than a takings case. Mitchell explained the time it takes to rezone is the issue. Zieg questioned the minimum size of the units. Garrett responded 375 sq. feet. Zieg commented he felt the traffic study was flawed and the City just got rid of old run down structures. Senmartin explained his concerns of utility and traffic impacts and felt that 25 units per acre was too much. Bartus commented that a lot of our jobs in the service industry need affordable housing and passing this this week will not guarantee any units to any hotels. Bartus suggested we may want to consider fractional allocations.

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

MOTION: Senmartin moved to approve Ordinance 2019-06 with consideration of a larger square foot per unit (375 sq ft.)

SECOND: Bartus

Gonzalez commented that we need affordable housing, but it needs to be done properly. There are too many unknown answers and he would like this tabled until the next meeting or we have the answers.

Vote of the Motion:

Yes: Senmartin, Bartus

No: Zieg, Gonzalez

Absent: Cook

Abstain: None

Vote on the Motion: 2 Yes, 2 No, 1 Absent, 0 Abstain; motion failed.

Migut suggested they could table this ordinance.

MOTION: Senmartin moved to bring back Ordinance 2019-06 and 2019-07 at the next meeting.

SECOND: Bartus

Vote of the Motion:

Yes: Senmartin Bartus, Gonzalez, Zieg

No: None

Absent: Cook

Abstain: None

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

Citizens Comments

Diane Scott commented that the City should have a seal.

Ordinance 2019-08, Amend The City Of Marathon Comprehensive Plan Modifying Chapter One, "Future Land Use," Table 1-1, "Future Land Use Densities And Intensities," To Provide Assurances That Residences Within RL-C Zoning May Be Rebuilt; 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 ordinance affects the same areas of code and explained the RL-C zoning in Grassy Key allows for them to be rebuilt.

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

MOTION: Zieg moved to approve Ordinance 2019-08
SECOND: Senmartin

Vote of the Motion:

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

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

Ordinance 2019-09, Amending Chapter 103 "Zoning Districts", Article 3 "Use And Intensity Tables", Modifying Table 103.15.1 "Uses By Zoning District" And Table 103.15.2 "Density, Intensity, And Dimension For Zoning Districts;" Amending Chapter 108, Article 3, "Nonconforming Uses," Section 108.12, "Nonconforming Density And Intensity" And Article 4, "Nonconforming Lots," Section 108.13, "Nonconforming Lots;" Providing For The Repeal Of All Code Provisions And Ordinances Inconsistent With This Ordinance; Providing For Severability; Providing For Inclusion In The Code Of Ordinances, City Of Marathon, Florida; And Providing An Effective Date

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

MOTION: Zieg moved to approve Ordinance 2019-09
SECOND: Senmartin

City of Marathon
City Council Action Minutes
March 26, 2019 5:30 pm City Council Meeting Minutes

Vote of the Motion:

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

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

Citizens' Comments:

Diane Scott asked that the bus stop be moved back to its previous location with seats and phone chargers.

Council Comments

Gonzalez thanked the Fire Chief and staff for their extremely professional response and saving several homes. Gonzalez reminded everyone little league baseball would be starting and to be careful driving in and around the park and watch for children.

Zieg passed on his thoughts and prayers to Vice Mayor Cook's family. Zieg gave a history of events that happened on this day and thanked Migut for the great letter to the County regarding the ambulance services.

Senmartin commented that he had a great trip to Tallahassee and reminded everyone to be careful.

Bartus also mentioned the great trip to Tallahassee but he was glad to be back in Marathon. Bartus informed everyone he would be at the ribbon cutting for Winn Dixie at 7:30 am tomorrow.

ADJOURNMENT

With no further business to come before the Council, Mayor Bartus adjourned the meeting at 7:05 pm by unanimous consent.

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


Diane Clavier, City Clerk


Date