

City of Marathon
City Council Action Minutes
May 14, 2019 5:30 pm City Council Meeting Minutes

CALL TO ORDER - A Meeting of the City Council of Marathon, Florida was held on May 14, 2019 in the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida, Mayor Bartus called the meeting to order at 5:30 pm.

Vice Mayor Cook informed everyone it was Police Week and Mayor Bartus asked for a moment of silence

The Pledge of Allegiance was recited.

ROLL CALL - There were present:

Councilmember Luis Gonzalez

Councilmember Mark Senmartin

Councilmember Dr. Daniel Zieg

Vice Mayor Steven Cook

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

Growth Management Director, Doug Lewis

Public Works Director, Carlos Solis

Utility Director, Dan Saus

Captain Don Hiller, Monroe County Sheriff's Office

Parks and Recreation Director, Jimmy Schmidt

Marina Director, Sean Cannon

Deputy Chief Eric Dunford

Approval of Agenda and Consent Agenda

Senmartin added a Planning Discussion as item 5G and Building Workshop Discussion as item 5H. Lindsey added approval of an extension to the line of credit for First State Bank and removed item 8B on behalf of the applicant. Bartus pulled Resolution 2019-38 from the consent agenda.

MOTION: Zieg moved to approve the agenda as amended.

SECOND: Gonzalez

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

City Council Items

*** Approval of Minutes**

National Prevention Week Proclamation (Councilmember Senmartin) the Council presented the proclamation to the Students and Dr. Belotti who explained the events of the National Prevention week and the students gave statistics regarding the prevention week.

ABATE Motorcycle Safety Awareness Month Proclamation - the members of the local Abate accepted the proclamation from the Council and reminded everyone not to text while driving and look out for motorcyclists. The Mayor recognized former Councilmember Bill Kelly.

33rd Street Redevelopment Discussion (Councilmember Zieg) Zieg explained that it was a good time to address the 33rd Street redevelopment since the school construction is happening and provided Councilmembers with an illustration depicting a proposed senior center, event center that would be multi-purpose in nature as well as a recreation center and additional boat and trailer as well as vehicle parking. Zieg explained the second illustration had an elevated three story building which could house additional office space for County or City offices which would have parking underneath and provided access to the Aqueduct Authority from 33rd Street. Zieg explained this was only a conceptual drawing to consider. Zieg thanked Steve Hurley with DDAI and George Garrett for their assistance. Gonzalez explained he would like everyone to consider Station 16 to remain a hub for ambulances. Senmartin stated it looked like a nice plan, and had a lot going on but he would like to digest it and give better suggestions. Cook stated he was happy we were looking at this again. Lindsey commented that since the hurricane staff has worked with Kevin Wilson with the County to correct the property lines and real estate numbers. Neither the City nor the County have no intention of removing the senior center, and would like to incorporate the recreation center and additional parking for trailers. Zieg commented this was added to the agenda to discuss, and not to make any final decisions. Zieg commented Isa Bella was also a possible area for EMS vehicles.

Extending Temporary Trailer Permits for an Additional 90 Days – Senmartin commented that he was expecting a report as requested from some time ago. Lewis explained there was a lot of data to pull together, but he would have the report by the next meeting.

MOTION: Zieg moved to approve the 90 day extension
SECOND: Cook

Bartus explained there are many still waiting for insurance and or FEMA funds.

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

Community Announcements were read. Zieg reminded everyone that the Dragon Boat races would be held on June 1st at Sombrero Beach and more teams are needed.

Planning Discussion – Senmartin explained his concerns that changing our zoning to allow for more homes on properties could cause additional takings cases and he would like the Council if they were in agreement to task the planning director and attorney to work on a limited liability type of agreement or hold harmless agreement to protect the City from a takings case in the future. Zieg questioned if this would be attached to the property and recorded and would run with the land.

Migut explained we would need to have a City wide policy and he understood the point the Council wanted to get to but we were limited in what we could do, and if we could find a way to accomplish this in our Comprehensive Plan or Land Development Regulations it would be more likely to pass a legal challenge, he would look into this. Garrett commented that our current comprehensive plan policy is that we remain net neutral and the number of down zonings have been very limited and the number of up zonings we may see in the future are very few if any. Senmartin commented that the County has a program in place where they are buying rights from your lot, where the owner would retain ownership of the lot but would not ever be able to build on it. Senmartin also commented that a moratorium could be place so that we have time to research this and go thru the new flood map, census and evacuation model and short of doing that, he was trying to come up with another solution. Bartus stated a valid point was made, and the Council gave a head nod to look into a policy.

Building Workshop Discussion – Senmartin explained the Council discussed setting building policy and procedures regarding building and impact fees and he wanted to set a date for a workshop where all of the Council could be present. Lindsey suggested the workshop be specific so that the workshop be productive. Council set a date of June 4th at 5:30 pm.

City Manager Report

Marina Report – Cannon gave an overview of his report.

Growth Management Report – Lewis explained there was a short window to collect sizable impact fees, and impact fee funding must be used for the study. Lewis explained he found out today that the County does not collect library, police and solid waste fees. We are in the middle of what other Keys municipalities charge, we need an audit and data to find out what we need to fund our department. Cook agreed, we need to do the study and have the data. Zieg commented that a number of structures on Overseas Highway need repairs and questioned where those businesses such as IHOP, Burger King, Pizza Hut, and Dion’s gas station at 62nd Street. Lewis explained the letter writing campaign and informed everyone Burger King was under contract, IHOP was 60 percent renovated, and all the

permits except Dion's are still current. Senmartin questioned what the parking status at 20th Street by the bridge was. Lewis explained MSCO asked for the no parking signs and staff was getting together to come up with a solution. Gonzalez suggested a no parking after dark rule.

Marathon Fire Rescue Department Report –Dunford informed everyone the department was averaging 200 calls a month. Senmartin commented on the legislation of medical teams being allowed to carry a firearm and questioned if Council was interested in taking advantage of this, he would insist on mandatory training. Dunford commented that it would be up to MSCO to set this up.

Washington DC Update – Lindsey gave an overview of the meetings and discussions that were had in Washington attended by Islamorada, Key Largo Wastewater and Mayor Bartus, Wastewater Director Dan Saus and Lindsey from Marathon

Citizens' Comments:

Diane Scott –asked the law be enforced and that the seal be adopted

Hotel/Motel Association Hurricane Conference – Lindsey explained that he granted authorization to use the Chambers and then that found out that they charge \$10, however after discussing with them, they do this so that the people who RSVP actually show up and they are a nonprofit and recommended approval. The Council gave a head nod approval.

FCT Grant Discussion – Lindsey gave the background of the grant applications the City made to the Florida Communities Trust and informed the Council the City was ranked 6th for the Salty's property and the Quay property was ranked 8th. The acquisition of the grant does come with limitations and he wanted to have a discussion and encouraged Council to ask any questions. Bartus recalled when the County received FCT funding for the park phase I and that is why we have phase II for the events field because of the restrictions. Garrett explained the restrictions and the 40/60 match, and explained the revenue neutral limitation. Bartus commented that the City does not own Salty's and is not in negotiations to acquire Salty's. Bartus expressed his concerns on the restrictions. Cook questioned if we could mitigate some of the limitations by separating the marina portion on the property. Lindsey stated that he did not know the answer, but we could look into it. This could benefit Pigeon Key as well, and maybe the County may want to partner with us or there are other funding grant sources. Cook and Zieg commented that we could stay on the list for now as we do not have to make this decision today; it is important to keep our options open and in the meantime keep looking at other funding sources. Senmartin clarified that we do not have to take one for the other. Garrett confirmed that was the case. Senmartin commented that the Quay property is ours and we have already worked out a way to afford it. Salty's property would be great to acquire and questioned the capital improvement could offset it for thirty years. Garrett stated he is also having discussions with the land authority. Senmartin suggested cutting the Quay property loose. Council stated there is not a clear vision of use of the Quay property. Bartus agreed he would be leery accepting funds, but we could stay on the list for now. Council gave head nods to see funding from other streams.

Line of Credit Extension – Lindsey explained we needed to request an extension from First State Bank line of credit.

MOTION: Cook moved to approve the line of credit extension
SECOND: Zieg

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

Quasi-Judicial Public Hearing:

Consideration Of A Request By Grassy Key Resort Group, LLC For A Conditional Use Permit and Development Agreement Pursuant to Chapter 102, Articles 8 and 13 Of The City of Marathon Land Development Regulations (LDRs) Entitled “Development Agreement” And “Conditional Use Permits” Respectively, Seeking For The Redevelopment Of Hotel Resort And Commercial Uses On Property Located at 58182 Overseas Highway, Which Is Legally Described As Township 65, Section 24, Range 33; Block 36 Lots 1-2-3-4 And Part of Lots 5-6 (Parcel A) And Westerly 15FT Unnamed Street Adjacent Lot 1 Res B-C-C 8/11/61 And Adjacent Portion Of Flagler Street And Grassy Key Bay Bottom Adjacent Lots 1-2-3 in the Crain’s Subdivision, Grassy Key, Marathon, Florida; Having Real Estate Numbers 00370940-000000. Nearest Mile Marker 58.5.

The clerk swore in speakers. Council stated they had no exparte communications.

Garrett explained the project and request for the conditional use.

Leslie Rhyne, agent for applicant commented that no zoning was required, the owners live and work in Marathon.

Senmartin questioned if there was any unpermitted work or open code cases on the property. Lewis confirmed there were no open code cases. Senmartin questioned if we were seeing this project and it was almost completed. Garrett explained the RV project is what requires a conditional use, it was not a finished project. Senmartin questioned if the parking was sufficient.

Mathew Sexton commented that there was adequate parking; 59 spaces and there was a valet service.

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

MOTION: Zieg moved to approve the conditional use
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

MOTION: Zieg moved to approve the Development Agreement
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

Ordinances for First Public Hearing

Ordinance 2019-08, Amending The Future Land Use Map From Residential Low (RL) To Residential Medium (RM) For The Property Described As Lots 5 Through 9, Block 58, Crain's Subdivision, Marathon, Monroe County, Florida, Having Real Estate Numbers As Stated In the Ordinance; 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 2019-09, Amending The Official Zoning Map From Residential Low (RL) To Residential Medium (RM) For The Property Described As Lots 5 Through 9, Block 58, Crain's Subdivision, Marathon, Monroe County, Florida, Having Real Estate Numbers As Stated in the Ordinance; 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 both ordinances.

John Wolfe, attorney/agent for the applicant explained why this was appropriate zoning and FLUM for the property and why it would not create a takings case.

Senmartin questioned if the land was cleared and if an after the fact permit was issued. Garrett informed everyone after Hurricane Irma a stop work order was issued, although we would have issued a permit because the property contained mostly exotics and the code case had been resolved.

Senmartin commented that RL is compatible, but MU was a standout. Garrett explained why it should be RM. Senmartin questioned if the applicant would enter into a hold harmless type of agreement. Wolfe stated they would not. Zieg asked Garrett to confirm that with the current zoning, one home could be built, with this up zoning, 13 market rate homes or 26 affordable units could be built on the property, and felt that the up-zoning would create potential takings cases. Garrett agreed.

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

MOTION: Zieg moved to deny the requested amendment.

Motion failed due to lack of a second.

MOTION: Bartus moved to approve Ordinance 2019-08

SECOND: Senmartin

Vote of the Motion:

Yes: Bartus, Senmartin

No: Cook, Gonzalez, Zieg,

Absent: None

Abstain: None

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

MOTION: Senmartin made a motion to reconsider Ordinance 2019-08

The motion was not considered since Senmartin was not one of voters who opposed.

Migut explained the options the Council could consider.

John Timinsky, owner of the property explained his plans for the property was to maximize the value as he is trying to sell the property and there was no interest.

Migut suggested the Council give staff direction via a motion.

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

MOTION: Zieg moved to approve Ordinance 2019-09

SECOND: Senmartin

Vote of the Motion:

Yes: Senmartin, Bartus

No: Zieg, Gonzalez, Cook

Absent: None

Abstain: None

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

Ordinances for Second Public Hearing and Enactment

Ordinance 2018-11, Amending The Future Land Use Map And The Zoning Map From Residential Low (RL) to Mixed Use (MU) and Residential Low (RL) For Property Located At 10155 Overseas Highway, Marathon, Florida, Monroe County, Florida, Which Is Legally Described As Part of Govt Lot 2 And Bay Bottom South Of And Adj Part Govt Lot 2, Key Vaca, Having Real Estate Number 00104460-000000; 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 2018-12, Amending The Future Land Use Map From Residential Low (RL) To Mixed Use (MU) And Residential Low (RL) For Property Located At 10155 Overseas Highway, Marathon, Florida, Monroe County, Florida, Which Is Legally Described As Part Of Govt Lot 2 And Bay Bottom South Of And Adj Part Govt Lot 2, Key Vaca, Having Real Estate Number 00104460-000000; 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 ordinances and informed everyone there had been no changes since first reading.

Senmartin informed everyone that at the last meeting he did abstain from voting because he was in a contract with the owner, but this no longer applies.

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

MOTION: Zieg moved to approve Ordinance 2018-11

SECOND: Senmartin

Vote of the Motion:

Yes: Zieg, Senmartin, Gonzalez, Cook, Bartus

No: None

Absent: None

Abstain: None

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

MOTION: Gonzalez moved to approve Ordinance 2018-12

SECOND: Zieg

Vote of the Motion:

Yes: Gonzalez, Zieg, Senmartin, Cook, Bartus

No: None

Absent: None

Abstain: None

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

Ordinance 2019-03, Amending The Future Land Use 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.

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 informed everyone there were no changes since the last hearing.

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

MOTION: Zieg moved to approve Ordinance 2019-03
SECOND: Gonzalez

Vote of the Motion:

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

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

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

MOTION: Senmartin moved to approve Ordinance 2019-04
SECOND: Gonzalez

Vote of the Motion:

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

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

Resolutions for Adoption

Resolution 2019-38, Providing Approval To Expend Additional Funds Through The First Time Home Buyer Loan Funding Program To Additional Qualified Applicants In An Amount Not To Exceed \$10,000.00 Per Applicant And No More Than Ten Additional Applicants Or \$100,000.00; Appropriating Funds; And Providing For An Effective Date.

Bartus explained the Resolution and the First Time Home Buyer Loan Program and was happy to see this successful program moving forward.

Bartus called for public comment; hearing none, closed public comments.

MOTION: Senmartin moved to approve Resolution 2019-38
SECOND: Gonzalez

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

***Resolution 2019-39**, Authorizing A “Sole-Source” Purchase Pursuant To The City’s Purchasing Policies And Procedures And Approving The Purchase of various Airvac (now the Aqseptance Group) vacuum collection system vacuum pits and appurtenances to provide sewer service connections for new construction, In An Amount Not To Exceed \$45,504.00; Authorizing The City Manager To Enter Into Agreements In Connection Therewith, Appropriating And Expending Budgeted Funds; And Providing For An Effective Date

*** Resolution 2019-40**, Authorizing A “Sole-Source” Purchase Pursuant To The City’s Purchasing Policies And Procedures And Approving The Purchase of Odor Control System Upgrades from Syneco Systems, Inc. for upgrades in Service Area 3, Service Area 5, and Service Area 5 Remote Vacuum Station, In An Amount Not To Exceed \$222,797.25; Authorizing The City Manager To Enter Into Agreements In Connection Therewith, Appropriating And Expending Budgeted Funds; And Providing For An Effective Date

*** Resolution 2019-41**, Awarding Contract For The Construction Of The Marathon Marina Dinghy Dock Project To Shoreline Foundation, Inc.; Approving Contract In The Amount Of \$413,307.00; Authorizing The City Manager To Execute The Contract And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date

*** Resolution 2019-42**, Approving Amendment 1 To Extend Grant Agreement No. 2140 Between The City And The Monroe County Tourist Development Council For the Oceanfront Park Improvements, And Providing For An Effective Date

*** Resolution 2019-43**, Approving Amendment Five Of The Inter-Local Agreement Between The City Of Marathon And Monroe County For Funding Of Ferry Service To Pigeon Key; Authorizing The City Manager To Execute The Inter-Local Agreement And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date

*** Resolution 2019-44**, Approving A Contract for Service Area 3 Wastewater Pre-Treatment To Reynolds Construction of Florida, LLC In The Amount Of \$365,000.00; Authorizing The City Manager To Execute The Contract And Appropriate and Expend Funds On Behalf Of The City; And Providing For An Effective Date.

*** Resolution 2019-45**, Approving A Contract Change Order #7 With Reynolds Construction For The Area 3 & 4 WWTP Upgrade Project In An Amount Not To Exceed \$368,876.97; Authorizing The City Manager To Execute The Contract Change Order #7 To Appropriate And Expend Funds On Behalf Of The City; And Providing For An Effective Date

Citizens' Comments:

Diane Scott – commented that dogs need to stay at their homes and not be allowed at the beach, or at the grocery store, she does not like dogs, although they have never done anything to her.

Council Comments

Gonzalez informed everyone that although the girls' softball lost 10-7 in the regional finals, they still made the elite 8 and did a great job. Gonzalez thanked Jimmy Schmidt.

Zieg wished everyone a happy Mother's Day and thanked Elizabeth Schut for identifying and assisting Public Works - Jim Griffith for repairing a portion of Coco Plum that was washed out during Irma. Zieg thanked Carlos Solis for continuing work on the tiki bus stop and gave a brief history of events that happened on this day.

Senmartin informed everyone the car show at the Quay property was successful and thanked Public Works Department for cleaning up the area. Senmartin informed everyone the car show was a fundraiser for the troops and \$1,600 was raised. Senmartin also informed everyone that the letter carriers collected 12,000 pounds of food that will go to the local food banks.

Cook thanked staff for keeping everyone informed and thanked Marathon Fire Rescue. Cook wished Mike Card a speedy recovery and thanked Monroe County Sherriff's office. Cook reminded everyone to lower their flags in support of the police officers.

Bartus commented that it had been 20 months and four days ago we were hit by Hurricane Irma and \$244,000 FEMA reimbursement had been received, and we have a lot of the same concerns.

ADJOURNMENT

With no further business to come before the Council, Mayor Bartus adjourned the meeting at 8:07 pm by unanimous consent.

I certify the above represents an accurate summary of the regular Council meeting of May 14, 2019.


Diane Clavier, City Clerk


Date