

CALL TO ORDER - A Meeting of the City Council of Marathon, Florida was held on June 11, 2019 in the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida, Mayor Bartus called the meeting to order at 5:30 pm.

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, Charles Lindsey

Planning Director George Garrett

City Attorney, David Migut

City Clerk, Diane Clavier

Finance Director Jennifer Johnson

Growth Management Director, Doug Lewis

Public Works Director, Carlos Solis

Utility Director, Dan Saus

Captain Don Hiller, Monroe County Sheriff's Office

Marina Director, Sean Cannon

Fire Chief John Johnson

Approval of Agenda and Consent Agenda

Zieg removed Resolution 2019-64 from the consent agenda and added item 5D Code Board Discussion.

Lindsey added Resolution 2019-65 to the consent agenda and discussion to request cancellation of the second meetings of the month for June, July & August.

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

33rd Street Project Discussion (Councilmember Zieg) – Zieg explained the mix of ownership between the City and County on 33rd Street and the desire by the County for the City to build a new structure that would address the needs of the Senior Center.

Lindsey announced he has spoken to Kevin Wilson at Monroe County and agreed the survey lines will need to be redrawn before any action can be taken. Lindsey reported a request has been submitted from the City to be on the Board of County Commissioners July Agenda to address the 33rd Street issue and he is currently waiting to hear back.

Community Announcements - The Clerk read the Community Announcements.

Code Board Discussion

Zieg explained he had the opportunity to listen to many residents in the community that have expressed displeasure with the Code Special Magistrate and who would like to return to a Code Board system. He stated the Code Department is doing a good job, settling nearly 70% of cases prior to going to a Code hearing, but supports the idea of going back to a Code Board and feels in the long run it would save the City money.

Senmartin spoke against going back to the Code Board system and explained there were a lot of issues with the old system and felt it did not allow people a fair shot at defending themselves and the Special Magistrate made the playing field equal.

Zieg stated he spoke with the Building Official who expressed displeasure with the Special Magistrate and is concerned about the way things have been going. He felt the Code Department will continue to settle cases prior to hearing with a Code Board system.

Gonzalez stated he could go either way on the issue and supports the idea of giving the opportunity for the citizens of the community to have input on the subject.

Cook spoke for keeping the Special Magistrate in place, as it allows for an unbiased ruling.

Bartus questioned if the percentage of resolved cases was the same with the Code Board as Special Magistrate.

Lindsey explained that people are encouraged to get their cases resolved prior to going to the Special Magistrate, but would like to come back to Council with more data and deferred the question to Lewis.

Lewis stated he doesn't have data, as he was hired about the same time as the Special Magistrate. However, he explained he would be happy to research the issue and come back to Council and explained there is a large success rate of getting cases in compliance prior to Special Magistrate.

Bartus stated he was not in favor of going to a Special Magistrate and requested to see more data to explore further. He asked for a head nod from Council to direct staff to gather data showing cases resolved prior to Code Board and cases resolved prior to Special Magistrate.

Cook asked for a timeframe of settled cases to be added to the data report.

City Manager Report

Five Year Service Award, Amanda Riley

Council and Saus presented Riley with her Five Year Service Award. Lindsey spoke on Riley's accomplishments over the last five years and stated she has gone above and beyond. She has taken on all of the Utility Department's inventory control, asset management and most recently she received her certification for Wastewater Plant Operator.

Review of Vacation Rental Fees (Resolution 2016-46)

Lindsey explained the annual review and that there was no reason to increase the fees this year and recommended no changes.

MOTION: Cook moved to accept the report.

SECOND: Zieg

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

Park and Recreation Report

Schmidt provided a report to Council, highlighting that Summer Camp is in good attendance and they are having fun outside and the fishing tournament was successful.

Gonzalez questioned when the batting cages will be replaced. Schmidt explained it's in the process of getting into the budget, the estimated cost is \$5,000 plus labor costs.

Monroe County Sherriff's Office, Marathon Substation Report

Captain Hiller spoke on his report and highlighted several cases of significance.

Bartus thanked Hiller and his staff for addressing the graffiti issues in town.

Senmartin spoke on the congregation of people at the end of 27th Street and explained he has received several phone calls from concerned residents and asked Hiller if he is aware of the problem. Hiller explained he is aware of the problem on 27th Street, as well as the area on 15th Street and he and his staff are working through the issues.

Cancellation of the second meeting in June, July and August

Lindsey explained the reason for cancelling the second meetings is the Planning Commission Meeting is cancelled for June, July is a slow month and in August there is a scheduled trial date and the 300 unit appeal. He asked for a motion to approve cancellation of the second meeting in June, July and August.

MOTION: Cook 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:

Approving 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 Time Frames For The Conditional Use Permit, Development Agreement And The Allocation Of Transient Residential Units (TRUs) Contemporaneous; 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 00100260-000100 And 00100260-000102

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

Garrett explained the new owner has all their building permit applications submitted and staff expects to issue their permits on time, but for precautionary measures a 60 day time extension is being requested to allow the owner to get all their permits in place. Garrett explained the extension will give them until September 10 2019.

Senmartin questioned when the last time the project was extended. Garrett replied the last extension was at the end of the year in 2018, under Resolution 2018-65, which related to the transition in ownership.

MOTION: Cook moved to approve the request by Holiday Inn Express & Suites for a Time Extension for Approvals granted through Resolution 2014-105 & 2015-37.

SECOND: Zieg

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

Senmartin stated he is agreeing with the time extension request because of the ownership change; however he doesn't want to see any more time extensions and he will not vote for it in the future.

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 2019-60, Consideration Of A Request For A Conditional Use Permit For Coral Construction Company 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 Affordable Housing, Outdoor Storage Yard, And Commercial Office Space; Located At 347 Aviation Boulevard; Which Is Legally Described As A Tract Of Land In A Part Of Sections 1 And 2, And Containing Lots 11, 12, 13, 14, 15, And A Portion Of Lots 10 And 16, Schmitt Subdivision, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida; Having Real Estate Numbers 00101300-000000 & 00101360-000000, Nearest Mile Marker 51.

The clerk swore in speakers. Exparte Communications – Senmartin stated he spoke to Steve Hurley briefly about the project. The rest of the Council stated they had no exparte communications.

Garrett explained the request for a conditional use permit for 14 affordable units and commercial uses as well as the background of the property.

Steve Hurley, with Cardno, provided a PowerPoint presentation. He explained the project is a workforce housing mixed use project and explained the developer was not looking to up zone or request a variance. He explained the buildings on the property are to be three quadplexes with an amenities section including a pool, a tiki hut (or something similar) and tot lot (fenced in green area for kids to play). The landscaping will comply with necessary requirements and there will be commercial office space for Coral Construction Company with additional workforce housing for their company workers. The commercial and residential spaces will have separate entrances. Hurley informed everyone the Fire Marshal approved the parking, water & sewer will be in place, easements for the utilities along the road will be in place. The drainage on site will be properly addressed. He spoke on the traffic impacts on

Aviation Boulevard and US1. He stated the project meets Land Development Regulation requirements and/or exceeds compliance.

Zieg questioned what the dimensions were for the parcel of land and what the new setback requirements are. Garrett did not know the exact dimensions of the property, but stated it was longer than it was wide and roughly 300 feet along Aviation Boulevard. He stated the setback requirements are 15feet.

Zieg questioned what would happen to the market rate unit on the property and if they have any permits for the affordable units yet. Garrett explained the market rate unit could be sold or moved, but there are no plans for it on the site and there are currently no permits for the affordable units.

Zieg questioned how long the property has been zoned Mixed Use and if the City will be exposed to takings cases if the 300 units are not received. Garrett did not know how long the property has been zoned Mixed Use. He explained a condition has been placed on the project and similar projects that says they have been approved for the unit(s) but it's their responsibility to obtain the unit(s).

Zieg asked Garrett to verify that the tallest building on the site will not exceed 37' feet. Garrett verified the buildings will not exceed the height limitation.

Senmartin asked Hurley to clarify if the parking on the commercial side of the property will be for parking vehicles or storing equipment. Hurley explained it's a Land Development requirement for the commercial space to have six parking spots for customers and/or employees to park their vehicles. The parking spots are for office operations. He explained the area just above the office parking is a vacant area with fenced in buffering where equipment and work vehicles will be stored.

Senmartin questioned what the range of rents the project would be. Hurley explained the vision is for medium to higher level rental, although they do not know the exact rents yet.

Senmartin questioned how many bedrooms/baths the units would be. Hurley replied that currently the project is just in the conditional use phase and the architectural portion has not been fully developed yet, but it probably would be a combination of two and three bedrooms. Senmartin asked if the project would come back to Council with the building phase. Garrett explained it would not come back before Council again. Garrett stated having had discussions with Council about the rent ranges, the consensus was to look into the medium to lower level incomes. Senmartin questioned if the Council Meeting was the proper venue to discuss rent ranges and Garrett replied yes.

Cook spoke on the intersection improvements the neighboring property GEM Homes is paying for and asked if this project would contribute to the improvements. Garrett stated all three projects will have to pay traffic impact fees. Cook stated he felt low to median rents would be proper, due to the effect Hurricane Irma had on people and encouraged Council to think about putting a cap on the affordable rents. Gonzalez agreed and stated median range rents are the bulk of our workforce and the greatest need. Senmartin supported having a mixed income level for the project and especially for the developer, as the project has to be profitable. He supported 120% to 140% and a mix of the lower tier rents.

Zieg stated the actual affordable housing space on the lot is .5 of an acre, because the other uses of commercial space take up the other portion and felt the presentation was misleading in that respect.

Hurley explained how the project met code requirements. Zieg explained he understood the project met the code requirements, but he felt it was too much on the property.

Mayor Bartus called for public comments.

Josh Mothner was sworn in to speak.

Mothner encouraged Council not to make conditions based upon the unknown.

Lindsey reminded Council this hearing could be the only time the project is before Council and encouraged Council to discuss the rents.

MOTION: Senmartin moved to approve Resolution 2019-60, with conditions that four units be no higher than 140% and ten units be at 120% or lower.

SECOND: Cook

Bartus asked Hurley if the conditions would be agreeable to the Developer and called for a five minute recess at 6:41pm. The meeting was called back to order at 6:45pm.

Hurley stated the applicant is okay with conditions on the table.

Vote of the Motion:

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

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

Citizens' Comments:

Diane Scott – spoke against the neighbor’s candy cane on the Church property.

Resolution 2019-61 Consideration Of A Request For A Conditional Use Permit For Captain Pips Holdings, 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 Multifamily Housing, Office And Restaurant, And Marina; Located At 1470 Overseas; Which Is Legally Described As Part Of Government Lot 2 And Bay Bottom North Of And Adjacent To Lot 2 And Adjacent Portion Of State Road 4-A, Part Of Government Lot 2 In Rear Of Hanley’s Inc, And Block 3 Part Of Lot 3 And Government Lot 2 W R Thompson Subdivision, Section 9, Township 66 South, Range 32, Key Vaccas, Monroe County, Florida; Having Real Estate Numbers 00320350-000000, 00102790-000000, & 00102760-003000, Nearest Mile Marker 48

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

Garrett explained the site's existing conditions and proposed use. He highlighted the ample screening and buffering conditions and parking as the site is mixed use. He stated the Planning Commission recommends approval, but has concerns regarding the employee commercial parking layout and protection of the mangroves on the property.

Steve Hurley gave a presentation on the requested conditional use. He explained the project is properly zoned for the property through densities and intensities. He provided an overview of the proposed project and explained the access line on the property goes back to Casa Cayo and confirmed the undeveloped land will not be developed. Hurley spoke on the utilities portion and stated they will tie in at the access line. The Fire Marshal determined a fire hydrant will be required at Casa Cayo as well and the fire line can be put within the same easement, running parallel with the sewer line. Hurley explained the details of the six unit housing building along with one affordable workforce housing unit, swimming pool and access to tiki with the Captain Pips operations. He also explained the traffic impacts.

Zieg asked if they have any housing allocations yet. Garrett replied they did not. Zieg questioned how they will obtain permits for the project and if they will apply in the BPAS system. Garrett replied they could apply through the BPAS system or purchase them on the open market.

Zieg asked for clarification that the neighboring property owners understands vacation rental units will be weekly only.

Cook wanted to clarify the responsibility is on the developer to obtain the building permit allocations, not the City. Garrett stated the affordable unit will probably need to come through the City, but the other six units will be the responsibility of the developer.

Mayor Bartus called for public comments.

Bob Mikes, spoke for the nice views on the property but stated the intersection is dangerous and the tourist that use the intersection are not familiar with it and it could pose a problem.

Nancy Greer, Resident of Harbor Cay Club, spoke on the current traffic impacts in the area and asked if there will be a sidewalk.

Karen Gilbert, Resident of Casa Cayo, stated she was in a bike accident two years ago in the area and doesn't want to be in another one. She stated there is not enough access driveway in the plans for pedestrians or bikers.

Bartus asked Hurley if there will be a sidewalk. Hurley stated there is an existing 10ft bike lane along the frontage of the parcels but there is no sidewalk in the design to come out of Casa Cayo.

Cook stated the loading area appears to stick out into the road.

Hurley stated he would look into designing the loading area for vehicles to come in parallel.

MOTION: Zieg moved to approve Resolution 2019-61.
SECOND: Gonzalez

Senmartin asked Council if they wanted to address the rent issue. Zieg replied no.

Bartus asked if Council wanted the parallel loading area to be included in the motion. Zieg replied no.

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

Resolution 2019-62 Consideration Of A Request For A Conditional Use Permit For Midway Specialty Care Center, Inc. Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled “Conditional Use Permits” For The Development Of A Medical Clinic; Located At 11400 Overseas Highway Units 103 & 104; Which Is Legally Described As Lots 2, 17, And 18 Less The Southerly Seven Feet And Half Vacated Alley, Key Colony Subdivision, Key Vaca, Monroe County, Florida; Having Real Estate Number 00334860-000000, Nearest Mile Marker 53

Council stated they had no exparte communications.

Garrett explained the project would be in the Town Square Mall in two suites on the first floor. He stated Planning Commission recommended approval.

Zieg asked what type of patients the Clinic will service. Garrett explained the facility will be a General Medical and Dental Practice.

Senmartin asked if the Board of Health or DBPR will oversee the business with regard to hazardous waste disposal, etc. Garrett replied yes.

MOTION: Gonzalez moved to approve Resolution 2019-62.
SECOND: Zieg

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

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

Ordinances for First Public Hearing

Ordinance 2019-11, Amending Section 18-125 Of The City Code Regarding Civil Penalties For The Possession Of Cannabis (Marijuana) For Amounts Under 20 Grams And For Possession Of Drug Paraphernalia; Clarifying The Citation Procedure; Establishing A New Procedure To Contest A Citation; Providing For Severability; Providing For The Repeal Of All Ordinances Inconsistent Herewith; And Providing An Effective Date.

Migut introduced Legal Intern Kylee Sipowski and explained she has been doing an excellent job and will be presenting tonight on the Ordinance.

Sipowski provided background information and explained the changes to the Ordinance. She further explained the changes were mirroring Monroe County's Ordinance, which included clarifying the terms, change in fine structures, enforcement and addressing the rights of violators.

Zieg complemented Sipowski on an excellent presentation and asked Migut to work closely with Patrick McCullough and the Sheriff's Office regarding the Ordinance.

Migut stated he has been working with McCullough since February and now the State Attorney's Office. He will make sure if they have any feedback they get it in before the next hearing.

Cook complemented Sipowski on a great job and asked Migut to look into stronger enforcement options if the violator cannot pay the fine.

Migut stated he will look into the matter before the next hearing. Senmartin asked if any tickets have been issued. Hiller replied yes, but not a lot.

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

MOTION: Zieg moved to approve Ordinance 2019-11.

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

Resolutions for Adoption

*A. **Resolution 2019-63**, Approving A Two Year Extension To The Agreement Between The City Of Marathon And Keefe, McCullough & Co., LLP For Auditing Services; Authorizing The City Manager To Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date.

B. Resolution 2019-64, Approving A Memorandum Of Understanding (MOU) Between The Monroe County School District Division Of Career And Technical Education (MCSD) And The City Of Marathon, Florida, Creating MCSD's Fire Academy At Marathon High School To Provide Fire Fighting Training To High School And Adult Students; and Providing For An Effective Date.

Zieg was pleased with the Resolution, and felt it encourages career building in the young locals. He explained the program applies to both high school and adult students and the school district is applying for a grant to cover the costs in an amount of \$52,000. Zieg suggested that if for some reason the grant does not go through, he would like to see Monroe County School District split the cost in half with the City. He also stated he does not think the program should be renewed if the grant is not received.

Chief Johnson explained Hurricane Irma was a major setback in getting the program started. He explained the program will allow students to take the firefighter 1 & the first responder test when they turn eighteen and have completed the program. He explained he's hoping for students to get their training and stay in Marathon long term.

Senmartin stated he's happy the program has come to fruition and thanked Chief Johnson and Deputy Chief Dunford for their hard work.

Chief Johnson stated Deputy Chief Dunford should take all the credit for making the program happen.

Gonzalez questioned if there will be a process in place to select students who are genuinely interested in the field as opposed to students who just don't want to be in school.

Chief stated the program will be about discipline and keeping the students on track and will be a very structured program. He explained there will be a methodology in place to weed out the undesirables, who don't want to be there.

Lindsey stated the first one or two years of the program will be about learning and it will continue to get better.

MOTION: Cook moved to approve Resolution 2019-64

SECOND: Gonzalez

Vote of the Motion:

Yes: Cook, Gonzalez, Senmartin, Zieg, Bartus

No: None

Absent: None

Abstain: None

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

Chief thanked Council for their support and will bring updates back to Council once the program starts.

***C. Resolution 2019-65**, Approving Change Order #2 For “39th Street Storm Water Improvements Project” To Charlie Toppino & Sons Inc. In The Amount Not To Exceed \$5,141.06; Authorizing The City Manager To Execute The Change Order And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date

Citizens' Comments:

Diane Scott requested that the bus stop be brought back to its original location.

Council Comments

Zieg provided a history of events that happened this day, thanked Jennifer Johnson for working on the budget and announced home values increased 5.28% last year in the Marathon area. He thanked Staff for prepping Council for the meeting and Kylee Sipowski for an outstanding job on the Ordinance presentation.

Gonzalez thanked staff for their hard work and thanked Kylee Sipowski for the great job on the presentation.

Senmartin welcomed Sipowski aboard for the summer and wished everyone a Happy Fourth of July, since the next meeting will be on 7/9.

Cook thanked staff for their hard work and welcomed Sipowski.

Bartus thanked the Parks & Recreation Department for the hard work preparing for the Fourth of July. He stated Marathon Rotary Club will be selling hot dogs, burgers, beer, soft drinks and water. All the money goes to scholarships for Marathon High School and good works projects in the Community.

ADJOURNMENT

With no further business to come before the Council, Mayor Bartus adjourned the meeting at 7:54pm by unanimous consent.

I certify the above represents an accurate summary of the regular Council meeting of June 11, 2019.

Diane Clavier, City Clerk

Date