

## COUNCIL AGENDA STATEMENT



**Meeting Date:** July 9, 2019  
**To:** Honorable Mayor and Council Members  
**From:** George Garrett, Planning Director  
**Through:** Chuck Lindsey, City Manager  
**Subject:** Less-Than-Fee

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### **BACKGROUND:**

At its May 28, 2019 meeting, the City Council requested that staff look into options for adopting a program similar to the County's "Less than Fee" program implemented through the Monroe County Land Authority.

Through Monroe County Resolution 175-2018 with a subsequent revision found in Resolution 438-2018, the County created the "Less than Fee" program for the purchase of residential density associated with adjacent properties in common ownership such that one property is developed while the other has remained vacant. The County Commission committed their Capital Infrastructure dollars to implementing the program with the understanding that Land Authority dollars could not be utilized in this program. The following are excerpts from the Land Authority Website:

#### **What is the "Less than Fee" (LTF) Program?**

It is a willing seller program that would allow you to retain ownership of the adjacent, vacant lot and use it for legally allowed accessory uses like a pool, open yard or garage in exchange for selling the right to build a home on that lot in perpetuity.

#### **Why has the County created this Program?**

Due to state and federal regulations, the Monroe County Board of County Commissioners has a limited number of residential building permits that it can issue to those seeking to build a house on a vacant lot.

In order to eliminate potential residential building rights on vacant land that would otherwise affect our environment, roads and hurricane evacuation, the County Commission created this voluntary Less than Fee Program to retire building rights.

#### **The Program is Very Simple**

The County's offer price for the residential building right on the adjacent lot is the current Market Land Value (MLV) as calculated by the Monroe Property Appraiser. Under the Florida Constitution, the Property Appraiser is independent from the County Commission and is elected by the voters of Monroe County.

**The County may offer to pay you 100% of the MLV provided that you agree to a deed restriction permanently retiring the right to build a home on your vacant lot. The program is completely voluntary for both parties.**

### **ANALYSIS:**

The program is an excellent means to reduce density and therefore, additional growth and liability from taking claims. The use of the Monroe County Land Authority is the appropriate tool as that entity was created to minimize potential takings claims during the implementation of the Monroe County Comprehensive Plan in 1986 through the present. For those that avail themselves of the program; those that are not interested in

additional residential development of adjacent parcels in common ownership, the program provides a relatively inexpensive means for the County and potentially the City to minimize takings liability. The principal issue is the cost of implementing the program.

Currently, the County has dedicated their Capital Infrastructure funds to carry out the program to purchase properties in unincorporated areas of the County only. The City's Capital Infrastructure dollars are committed in large part to offsetting the costs of implementing the City's stormwater program. Thus, the City does not currently have available capital or other dollars for the independent implementation of a similar program within the City of Marathon.

## **CONCLUSION:**

In conclusion:

1. The program is a valuable tool that can be utilized to reduce potential takings liability within the City;
2. The program could be implemented by Resolution; a Resolution that would request the Land Authority's implementation of a Less than Fee program on the City's behalf;
3. The City does not currently have the available funds to implement this program within the City;
4. A funding mechanism will have to be developed.