

# CITY OF MARATHON



## Memorandum

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**Meeting Date:** July 9, 2019

**To:** Honorable Mayor Bartus and City Council Members

**Through:** Chuck Lindsey, City Manager

**From:** Douglas Lewis, Growth Management Director/Building Official

**Subject:** Growth Management Report  
Special Magistrate

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On July 11, 2017 Council passed Ordinance 2017-03 establishing a Special Magistrate to replace the Code Compliance Board. A contract with our special magistrate was approved on June 12, 2018 by Resolution 2018-62.

The first Code Hearing with the Special Magistrate was on August 15, 2018 and there have been 11 scheduled Hearings to date.

The following is a break down comparing one year with the Code Compliance Board and one year with the Special Magistrate for notices of hearings sent, cases heard, rulings and cancellations.

	Special Magistrate 2018-2019	Code Compliance Board 2016
Notices of Hearing Sent	91	52
Cases Withdrawn for compliance	45	18
Cases Heard	46	34
In Violation	40	31
Not In Violation	1	0
Continued	5	3
Hearings Scheduled	11	12
Hearings Cancelled	2	5

The mechanism for appeal remained the same with both the Code Compliance Board and the Special Magistrate. An appeal of a ruling must go before Circuit Court, however an appeal of the amount of a fine may go before City Council. There were no appeals to either the Circuit Court or City Council during the time period reported for the Code Compliance Board and there have been no appeals of any rulings or fines imposed by the Special Magistrate.

Since the appointment of the Special Magistrate the Code Department has been able to streamline several processes to utilize staff time more efficiently. Code Board attorney fees for the seven Hearings in 2016 were \$1,225.00 (\$175.00 per Hearing). The Special Magistrate fees for the eleven Hearings in 2018-2019 were \$1950.00 (\$177.00 per Hearing).

According to Florida Statute “the local governing body of a county or a municipality that has a population equal to or greater than 5,000 persons must appoint seven-member code enforcement boards.” Additionally, The Local Government Code Enforcement Boards Act requires that, when

possible, such boards be composed of “an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.” Aside from maintaining the board demographics, lack of attendance can prohibit a board from achieving quorum numbers and lead to cancellation of the scheduled meeting.

Florida Statute also requires a local government to maintain separate legal counsel for its code enforcement board (“The local governing body attorney shall either be counsel to an enforcement board or shall represent the municipality or county by presenting cases before the enforcement board, but in no case shall the local governing body attorney serve in both capacities.”). Therefore in addition to the City attorney, a separate attorney had to be retained specifically to board meetings. This statutory mandate to employ an additional attorney as advisor to the volunteer board may negate the cost savings of using a volunteer board.