

CALL TO ORDER

A Meeting of the City Council of Marathon, Florida was held on November 12, 2019 in the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida, Mayor Bartus called the meeting to order at 5:30 p.m.

Presentation of the Flag by the American Legion. The Pledge of Allegiance was recited.

ROLL CALL - There were present:

Vice Mayor Steven Cook

Councilmember Luis Gonzalez

Councilmember Mark Senmartin

Councilmember Dr. Daniel Zieg

Mayor Bartus, comprising a quorum

Also in attendance were:

City Manager, Chuck Lindsey

City Attorney, David Migut

City Clerk, Diane Clavier

Planning Director George Garrett

Utilities Director, Dan Saus

Building Code Administrator Doug Lewis

Public Works Director, Carlos Solis

Finance Director Jennifer Johnson

Park and Recreation Director, Anthony Paul Davis

Monroe County Sheriff's Office, Sheriff Rick Ramsay

Monroe County Sheriff's Office, Captain Don Hiller

Approval of Agenda and Consent Agenda

Bartus moved item 4, passing of the gavel to item 6B and added an American Legion Auxiliary Centennial Day Proclamation after the Veterans Day Proclamation. Cook added item 7F, Lions Club update. Bartus also added item 7G, Code Board discussion. Migut added item 8E, Opiate Litigation. Lindsey removed Resolution 2019-111 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.

Resolution 2019-108, Accepting The Results Of The Municipal General Election Held November 5, 2019 For The Election Of Three At Large City Council Seats; And Providing For An Effective Date

There were no speakers.

MOTION: Gonzalez moved approval

SECOND: Cook

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

Swearing in of Council Members - Councilmembers Bartus, Cook and Zieg were sworn into office.

Bartus recounted the 2017 Hurricane Irma and accomplishments since that time as well the lack of FEMA reimbursements, and the City has no debt as a result of Irma. Bartus commented that Cook would be the fourth mayor to sign declaration extensions and expressed his gratitude to his fellow Councilmembers and City staff as well as the voters.

Passing of the Gavel – Migut explained the process was based upon Resolution 2017-13, and Cook would become the Mayor and Gonzalez would be the Vice Mayor.

City Council Items

* Approval of Minutes

Veterans Day Proclamation – The Council presented the proclamation to members of the American Legion Post 154 Auxiliary and Color Guard and thanked them for their service.

American Legion Centennial Day Proclamation - – the Proclamation was presented to members of the American Legion Post 154 Auxiliary.

Marathon Hemp and Arts Festival Request to waive fees January 30th and February 1st, 2020 – Lindsey explained that the applicant was not requesting fees to be waived. Gonzalez commented that this would be a \$4,000 fee event. Davis explained this was a kickoff for the group holding this wellness event.

MOTION: Gonzalez moved approval

SECOND: Cook

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

Monroe County Commissioner Michelle Coldiron was recognized.

Florida Keys Celtic Festival Request to waive fees and sell alcohol January 11th and 12th, 2020 Davis explained they were requesting fees to be waived.

MOTION: Bartus moved approval

SECOND: Gonzalez

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

Community Announcements – the announcements were read. Councilmember Bartus informed everyone Presents in Paradise would be holding their fundraiser Saturday at 6:00pm at Key Colony Inn. Senmartin informed everyone the Marathon High School would hold the play Clue on the 15th and 16th of November.

Lions Club Christmas Tree Sales (Willie Gonzalez) Willie Gonzalez, President of the Lion's Club informed everyone the Lions Club would not be selling Christmas trees this year.

Code Board Discussion (Bartus) Bartus explained he would be much more comfortable with a code board rather than a magistrate that may be impartial. Gonzalez suggested exploring having a code board, and who would be candidates for the next 60 days without having any current cases interrupted. Senmartin stated it was a problem before having a code board, it was not fair or even, the weight of a code board was not to be taken lightly. Zieg commented that he had heard a number of complaints and we should explore the idea as long as the current cases are not interrupted. Lewis explained it was important to have knowledgeable people on the board, and it is a requirement that you must have certain backgrounds such as architects, engineers and construction workers, and this is hard to get those people to commit in this small town. Cook agreed with Senmartin, but he was willing to investigate having a code board. Senmartin argued it is a courtroom and he was not in favor of having a code board.

City Manager Report

Public Works Department Report – Solis gave an overview of his written report and current updates on projects such as the Aviation Blvd. project, Quay Boat Ramp and new DOT tiki hut bus stops and Oceanfront Dog Park.

Marina Report – Cannon gave a brief overview of his written report and informed everyone the Marina would again be collecting funds for bicycles for the area children.

Fire Rescue Report – Chief Johnson gave an overview of his written report and informed everyone that 11 high school students were attending the fire classes.

Citizens' Comments:

Ingrid Housemann Tyree complained that the elevator permit processes was taking too long and that no one knew Senator Rubio held a meeting in City hall and asked the Council to revisit the beautification idea for the US1 corridor.

Diane Scott – commented that the City needed their own police department.

Cancellation of the second meetings in November and December – Lindsey requested cancellation of the second meetings due to the holidays. The Council agreed by unanimous consent

National Prescription Opiates Class Action Litigation (Migut) Migut explained the class action litigation whereas the City has a limited option to withdraw, but recommended we do no withdraw and asked for head nods from the Council. Bartus questioned what the City could gain. Migut explained this litigation was in its infancy, but suggested the City could potentially be reimbursed for costs, and Migut did not see a downside. Council gave head nods to stay in the Class Action.

Quasi-Judicial Public Hearings

Resolution 2019-109, Consideration Of A Request To The City Of Marathon By Jack Carlson To Abandon The Public Right Of Way Located At 11491 1ST Avenue Ocean, Known As Smokes Court AKA 1st Avenue Ocean, Described As Being Adjacent To And Between Lots 161-162 And Lot 3, Little Venice Number 2 Subdivision, Key Vaca, Having Real Estate Numbers 00346890-000000 & 00345350-000000. Nearest Mile Marker 53.

Speakers were sworn in. Exparte Communications: Council stated they did not have exparte communications.

Garrett explained the request to abandon a portion of the right of way and informed everyone that the applicants would convey a utility and public access easement in lieu of donating comparable land with access to water. Senmartin questioned if the City would

get a fee for this. Garrett explained the application fee was \$5,000. Zieg questioned if this was reviewed by the planning commission. Garrett replied it was not.

MOTION: Senmartin moved to approve with the conditions proposed

SECOND: Zieg

Vote of the Motion:

Yes: Senmartin, Zieg, Bartus, Gonzalez, Cook

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 The City Of Marathon's Comprehensive Plan Modifying Chapter One, "Future Land Use," "Table 1-1, Future Land Use Densities And Intensities," And Intending To Modify Policy 1-3.3.4, "Encourage Redevelopment Of Tourist/Resort/Campground Facilities," To Allow Uses Designated As "Permanent RVs" To Be Utilized As "Transient Residential Units" (RV Lots), Meeting All Requirements Of Such Uses, And That Hold No Monetary Value As Transient Units, And Cannot Be Transferred As Transient Units, To Be Allowed On Properties Zoned Residential Mobile Home (R-MH) That Also Allows Permanent Florida Building Code Compliant Residences; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After The First Hearing By The City Council; And Providing For An Effective Date.

Garrett explained if the ordinance passed would require additional versions to the Land Development Regulations, the applicant is Trailer Ranch by the Sea, and this would be owner occupied permanent RVs only and would sunset in three years. Permanent RVs are identified as "Market Rate" building rights which are retained on site as "Market Rate" units if rebuilt and transfer as a Transferable Building Rights (TBRs) as Affordable Building Rights. The intent of the proposed amendment is to allow Permanent RVs (as structures) to be demolished and to allow RVs, under RV regulations, to occupy the site. If a Permanent RV property or site is ever re-built, the reconstructed units would be required to meet the Florida Building Code and would be designated as a Market Rate residential unit. While being used as an RV site, the Site would NOT be assumed to have a Transient Residential Unit (TRU) development right and COULD NOT be transferred to another site as a TRU.

Gonzalez explained he supported the ordinance because it gives them the opportunity to get back on their feet, and it is owner occupied and would be sunset in three years.

Senmartin commented that the fine was not enough for not evacuating and he would like the fine to be \$1,000 per day and a mechanism for making sure they are road ready such as

having an inspection program. Garrett explained staff was looking at these parks more thoroughly the last two years because of Irma. Migut explained Florida law limits fines to \$250 per day. Cook commented that this was a constant issue we have with vessels as well, the FWC and deputies go through and give fines to mariners and questioned how many people we had to enforce. Lewis suggested that the onus should be put on the park and make them keep a log to when they come in and we monitor the log.

Cook called for public comments.

Edward John spoke against the ordinance.

Rodger Michael Hall spoke against the ordinance.

Stacey Dumas spoke against the ordinance.

Randy Bordon spoke for the ordinance.

Garrett explained this was a comprehensive plan amendment that would affect all parks, this ordinance would provide additional options while not taking anything away. Bartus stated his concerns with unintended consequences.

MOTION: Senmartin moved to approve with a three year sunset, with the owner occupied restrictions and bring it back in December for first reading again.

SECOND: Bartus

Vote of the Motion:

Yes: Senmartin, Bartus, Zieg, Gonzalez, Cook

No: None

Absent: None

Abstain: None

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

Ordinance 2019-12, Amending The City's Comprehensive Plan To Modify Comprehensive Plan, Chapter 1, "Future Element, Goal 1-3, "Manage Growth;" Objective 1-3.2, "Regulate Density And Intensity;" Policy 1-3.2.5; "Maximum Height Limitation," Increasing The Maximum Building Height To Forty-Two Feet (42) For Residential Structures To Provide Compensation For Increases In Required Elevations For The New FEMA Firm Maps; Providing That Residential Structure Shall Not Thereby Exceed Three Stories Above Grade; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After Final Adoption By The City Council; And Providing For An Effective Date.

Garrett explained the ordinances 2019-12 and 2019-13 which modify provisions concerning the maximum height of any structure.

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

MOTION: Bartus moved approval with existing “O” crown method of measuring crown in the road.

SECOND: Zieg

Vote of the Motion:

Yes: Bartus, Zieg, Senmartin, Gonzalez, Cook

No: None

Absent: None

Abstain: None

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

Ordinance 2019-13, Amending The City’s Land Development Regulations, Chapter 103, Table 103.15.2, “Density, Intensity And Dimensions For Zoning Districts, Chapter 107, Article 5, “Setbacks And Height,” Section 107.40, “Maximum Height” And Figure 107.40.1, “Building Height Measurement,’ Increasing The Maximum Building Height To Forty-Two Feet (42) For Residential Structures To Provide Compensation For Increases In Required Elevations For The New FEMA Firm Maps; Providing That Residential Structures Shall Not Thereby Exceed Three Stories Above Grade; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After Final Adoption By The City Council; And Providing For An Effective Date.

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

MOTION: Bartus moved approval

SECOND: Zieg

Vote of the Motion:

Yes: Bartus, Zieg, Senmartin, Gonzalez, Cook

No: None

Absent: None

Abstain: None

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

Ordinance 2019-14, Amending The City’s Land Development Regulations To Modify Chapter 103, Article 3, “Use And Intensity Tables,” Table 103.15.1, “Uses By Zoning District” And Adding A Section To Chapter 104, Article 1, To Be Titled “Permitting Of Residential Units Which Exceed Six (6) Bedrooms” As Defined Therein; Amending Chapter 110 To Provide Related Definitions For Bedrooms; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After Final Adoption By The City Council; And Providing For An Effective Date.

Garrett explained the amendments to the Land Development Regulations regarding bedrooms and that seven or more bedrooms would require a conditional use.

Zieg asked Saus to comment regarding impacts, if any modification would be needed to the system. Saus explained if we are going to create that flow, we cannot guarantee no backups, and the connection point would need to be designed, it would not be a good idea. Bartus commented that he did not agree with a requirement of additional allocation as we do not have enough already. Senmartin stated he was on the side of the property owner, and felt it was not the City's place for a conditional use and we are back to making ordinances for a few people, if we don't want it, don't allow it. Garrett explained this would be a way to manage it. Senmartin explained they could subdivide the property and put a few six bedroom homes. Chief Johnson commented that he likes the conditional use as sprinklers and exits would come into play. Lewis explained the City's code is behind, this is not being built for a single family, this will be a vacation rental for 38 people who will have a reasonable assumption they will be safe. Lindsey commented that this was not about vacation rentals, it is about safety, it lets neighbors, fire department and utility departments weigh in. Migut explained with the conditional use, the decision would be based on criteria if it would be approved or not and would apply going forward.

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

MOTION: Senmartin moved to deny.

Without a second, the motion failed.

MOTION: Bartus moved approval with the elimination of the additional requirement of an allocation.

SECOND: Zieg

Vote of the Motion:

Yes: Bartus, Zieg, Gonzalez, Cook

No: Senmartin

Absent: None

Abstain: None

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

Resolutions for Adoption

***A. Resolution 2019-110**, Amending The City's Fiscal Year 2018-2019 Budget; And Providing For An Effective Date

B. Resolution 2019-111, Accepting The Responsible Bid And Approving A Contract Between The City And LPS Utilities, Inc.; In An Amount Not To Exceed \$288,868.92 For Canal 257 Water Quality Improvement and Culvert Installation Project; Authorizing The City Manager To Execute The Contract And Expending Budgeted Funds On Behalf Of The City; And Providing For An Effective Date

Solis explained why the City went with the extreme low bidder, and that the Contractor was currently in the area doing good work, and therefore would not have to remobilize their equipment.

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

MOTION: Bartus moved approval.

SECOND: Zieg

Vote of the Motion:

Yes: Bartus, Zieg, Senmartin, Gonzalez, Cook

No: None

Absent: None

Abstain: None

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

***C. Resolution 2019-112**, Approving An Interlocal Agreement Between Monroe County, The City Of Marathon, And The City Of Key West To Provide A Public Transit System, Connecting With The Miami-Dade To Marathon Transit System, To Serve The Lower Keys From 50th Street, Marathon, To Key West; And Providing An Effective Date

***D. Resolution 2019-113**, Approving A “Piggy-Back” Agreement Between The City Of Marathon, Florida And H&R Paving, Inc., For The Re-Paving of the Community Park Asphalt Sidewalk; Approving Contract In An Amount Not To Exceed \$73,900.00; Authorizing The City Manager To Execute The Contract And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date

Citizens' Comments:

Diane Scott asked the Council to move the bus stop back to the previous location.

Ingrid Housermand Tyree – spoke regarding the Government TV channel and reef innovation.

Council Comments

Senmartin congratulated all of the candidates.

Bartus thanked the staff for the great 20 year birthday celebration.

Zieg congratulated Cook and Gonzalez and Bartus, thanked staff and wished everyone a happy Veterans Day. Zieg gave a history of events that happened on this day.

Gonzalez congratulated Cook, Bartus and Zieg and thanked staff, Marathon Fire Rescue, MSCO and informed everyone the Marathon High winter sports program started. Gonzalez wished everyone a happy thanksgiving.

Cook thanked the Veterans for their service, especially the Veterans of the Vietnam War. Cook commented that the City has been reimbursed less than two million out of thirty two million and Rebuild Florida is moving at a glacial pace and yet we have a balanced budget, all due to the staff that is committed to constant improvement. Cook also thanked everyone who voted and the Sheriff and Deputies of the Sherriff's office, Marathon Fire Rescue and those who volunteer on the City Committees, and his fellow Councilmembers and their families. Cook wished his grandson a happy birthday as well.

ADJOURNMENT

With no further business to come before the Council, Mayor Cook adjourned the meeting at 8:30 pm by unanimous consent.

I certify the above represents an accurate summary of the regular Council meeting of November 12, 2019.

Diane Clavier, City Clerk

Date