

City of Marathon
City Council Action Minutes
June 9, 2020 5:30 pm City Council Meeting Minutes

CALL TO ORDER - A Virtual Zoom Meeting of the City Council of Marathon, Florida was held on June 9, 2020, Mayor Cook called the meeting to order at 5:30 pm.

ROLL CALL - There were present:

Councilmember John Bartus

Vice Mayor Luis Gonzalez

Councilmember Mark Senmartin

Councilmember Dr. Daniel Zieg

Mayor Steven Cook, comprising a quorum

Also in attendance were:

Chuck Lindsey, City Manager

Planning Director George Garrett

Attorneys with Vernis and Bowling, Dirk Smits and Gaelan Jones

City Clerk, Diane Clavier

Finance Director Jennifer Johnson

Growth Management Director, Doug Lewis

Public Works Director, Carlos Solis

Fire Chief John Johnson

Parks and Recreation Director, Paul Davis

Marina Director, Sean Cannon

Cody Ward, Paralegal

Statement from the Mayor regarding virtual meeting procedures. The Mayor read the following statement: Pursuant to Executive Order No. 20-69, issued by the Office of Governor Ron DeSanctis on March 20, 2020, municipalities may conduct meetings of their governing boards without having a quorum of its members present physically or at any specific location, and utilizing communications media technology such as telephonic or video conferencing, as provided by Section 120.54(5)(b)2, Florida Statutes. Procedures for the public comment will be explained by the City Attorney shortly and may be adopted by the Council for all virtual meetings in the future. The members of the City Council appearing remotely for this meeting are *Mayor, Steve Cook, Vice Mayor, Luis Gonzalez, Councilmembers John Bartus, Mark Senmartin, and Dr. Daniel Zieg.*

The Pledge of Allegiance was recited.

Statement from the City Attorney Dirk Smits stated the following: The material for each item on the agenda is available during business hours at the city clerk's office and on-line, 24 hours a day at www.ci.marathon.fl.us.

- Any person who wishes to make public comment during this meeting may be heard by the City Council, through the Mayor for not more than three minutes, on any proposition before the City Council, unless modified by the Mayor. Since this is a virtual meeting as authorized by the Governor the State of Florida, members of the public wishing to address the body may do so by calling (305) 289-4130, or emailing cityofmarathon@ci.marathon.fl.us with your name, address, and agenda number of the item(s) you wish to comment on, along with a phone number where you can be reached after 4PM on May 12, 2020. Any member of the public wishing to comment on items not on the agenda may make their comment known to the Council by emailing council@ci.marathon.fl.us, or submitting the comment to the drop box maintained at City Hall no later than four (4) hours prior to the meeting. All comments submitted will be included as part of the public record for this virtual meeting and will be considered by the City Council prior to any action taken.
- When addressing the City Council, the member of the public must first state his or her name, his or her address, and what item will be spoken about.
- Anyone wishing to appeal any decision made by the City Council for any matter considered at this meeting may need a verbatim record of the item. A video of this meeting may be requested after the meeting by emailing cityofmarathon@ci.marathon.fl.us, and may be viewed live at <https://www.youtube.com/channel/UCFimq7DjLHNolPgqbKtaftQ/live>.
- Please silence all cell phones and other noise-making devices.
- Any person with a disability requiring assistance, auxiliary aids, and services for this meeting may notify the City Clerk.
- Please note Council Members have generally been briefed by city staff and the city attorney on items on the agenda today.

Access and Public Comment Accommodations

Access to the Meeting

The City of Marathon is using Zoom to hold the June 9, 2020 Virtual Special City Council meeting. Zoom is a cloud platform for video and audio conferencing, collaboration, chat, and webinars across mobile devices, desktops, telephones, and room systems. In order to ensure that the public has the ability to view the meeting, the City will broadcast the meeting. The meeting can be viewed live by visiting

<https://www.youtube.com/channel/UCFimq7DjLHNolPgqbKtaftQ/live>. Additionally, the City has not selected a virtual platform that requires the public to purchase or download any additional software or equipment to watch this meeting. Aside from the Zoom platform and that the participants will be appearing remotely; the public will have no discernible difference in their ability to watch the meeting.

Approval of Agenda and Consent Agenda

Zieg added legal notice update on attorney progress as item D under City Council items. Lindsey added equipment surplus donation from Monroe County and introduction of Noe Martinez, Building Official and removed Resolution 2020-17

MOTION: Zieg moved to approve the agenda as amended.

SECOND: Gonzalez

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

City Council Items

* Approval of Minutes

40th Annual 7-Mile Bridge Run Request

MOTION: Senmartin moved to approve.

SECOND: Zieg

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

Army Corp of Engineers Presentation - Florida Keys Coastal Storm Risk Management Draft
Feasibility Study

Rachel Haug explained the Florida Keys Coastal Storm Risk Management Feasibility Study. Haug informed everyone webinars were held with staff from all of the municipalities and the BOCC requested feedback from the municipalities. Haug explained the study investigated solutions that will improve resiliency by reducing damage and risks from the impacts of coastal storms taking into account sea level rise. Haug explained that tentatively alternate 7 plan was selected, which would include shoreline stabilization in six areas, nonstructural measures for residential and non residential structures at risks, the measures would include elevation of residential properties, floodproofing of commercial properties and critical infrastructure at risks and acquisition of residential properties. The projected first costs is \$3,800,000,000, and anticipated \$2,470,000,000 of federal funding and \$1,330,000,000 of non federal funding of the project; the numbers are expected to evolve as more detailed costs are developed. The draft report will recommend 7,100 residential elevation of 7,124 structures at a cost of \$1,942,574,092 and floodproofing of 3,852 non residential structures at a cost of \$812,278,416 and acquisition of 286 residential structures at a cost of \$290,503,227. Haug explained the numbers are approximate and subject to change before the report is finalized. The analysis would also be updated in the design phase

to account for continually evolving environmental conditions. Haug gave a breakdown of structures for acquisition, elevations and floodproofing; in Marathon, 84 structures recommended for acquisition, 1,003 elevation and 611 structures for floodproofing for a total of 1,698 structures.

Haug explained the nonstructural measures under alternative 7: Current USACE policy requires that acquisition must be implemented, even if it requires the use of eminent domain. Monroe County will not support a plan with mandatory acquisition and has submitted a formal request to USACE for a waiver from the current policy. Waiver request must be approved by the Secretary of the Army for Civil Works and it is uncertain when a decision will be made. Draft report will not include addresses, maps, etc. identifying homes recommended for acquisition in the TSP. If no decision or request is denied by the Agency Decision Milestone in October, County would likely choose a locally preferred plan (LLP)

Haug explained the LLP option: County will likely choose a Locally Preferred Plan if their request for a waiver from the mandatory acquisition policy is not approved. Any economically justified options can be combined into a Locally Preferred Plan. If increase in cost, county pays the difference; if equal or decrease in cost, cost share stands at 65/35.

Examples of a possible LPP include Removal of acquisition at \$290,000,000. Substitution of elevations for acquisitions, 225 of 286 structures recommended for acquisition have positive BCR for elevation. Removal of acquisition and/or elevation instead of acquisition only in Municipalities that would not support it

Haug explained the next steps and task timelines.

Bartus stated he did not support mandatory acquisition. Senmartin agreed with Bartus regarding acquisition but felt elevation would be okay if there were funding available. Gonzalez agreed with the County to request a waiver. Zieg explained he had several objections; he was against mandatory eminent domain, elevation makes much more sense, but we would have to come up with a billion dollars so the exorbitant costs would be too much. Cook agreed no mandatory acquisition. Rhonda Bergan asked the Council if they wanted to request a waiver to remove acquisition. Lindsey questioned if a waiver has ever been approved, and Bergan replied not yet.

MOTION: Bartus moved to support the waiver

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

Lindsey clarified that he would provide a letter to the BOCC.

Legal Department Attorney Application Information: Smits explained three submittals were received that had everything that was requested. Smits explained the advertisement is closed. Cook asked that the packets go to all of the Councilmembers to review. Senmartin stated he would like to review the incomplete submittals as well.

July 4th Fireworks Discussion – Lindsey explained the fireworks were already purchased and asked the Council for input. Gonzalez explained we need to take responsibility for our own actions and rules will need to be followed, but he would like to move forward at this time. Zieg agreed, it would be easier to go ahead with the plan, but there is not enough information at this time with the numbers if they would spike, and we can cancel if needed, but at this time if everyone respects social distancing, or we could always have the fireworks with the beach closed. Senmartin agreed to move forward barring a jump in local cases and asked for the Fire Chief's opinion.

Bartus stated we will have a good idea before the fourth for the case count. Chief Johnson agreed with Councilmember Zieg, there is not enough information, we can plan and close if necessary. Cook thanked the MSCO for planning ahead for a great celebration. Bartus commented that Rotary members that will be cooking will wear masks.

Randy Mearns commented that the company has had 60 percent of their shows cancel and suggested watching what others are doing.

Anthony Davis commented that the playground equipment is sanitized three or four times daily with the fogging equipment as well as tables are wiped down.

Heavy Equipment Surplus – Lindsey explained the County had surplus equipment , which included a front end loader, Solis and the utility maintenance mechanic were going to check it out Thursday to see the condition it is in, and asked for head nods to accept the equipment. The Council gave their approval.

Introduction of Building Official – Lindsey introduced Noe Martinez and informed everyone Martinez had extensive experience as a building official, he has had huge challenges while in Marathon and he wants to make things more compliant with state requirements. Gonzalez thanked Martinez for all he does and asked if there were plans to bring the position in house. Martinez explained he would be speaking with the contractors together when possible to let them know what to expect.

Ordinances for Third Public Hearing and Enactment

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) To Provide Compensation For Increases In Required Elevations For The New FEMA Firm Maps; 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 this has been before the Council before, we received comments back from DEO, and in March you heard the comments, but in an abundance of caution we are bringing it back again.

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

MOTION: Zieg moved approval
SECOND: Senmartin

Vote of the Motion:

Yes: Zieg, Senmartin, Bartus, 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 To Provide Compensation For Increases In Required Elevations For The New FEMA Firm Maps; 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 public comments, hearing none, closed public comment.

MOTION: Bartus moved approval
SECOND: Senmartin

Vote of the Motion:

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

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

Ordinance 2019-16, 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 With a FLUM designation of Residential High (RH) or Mixed Use Commercial (MUC) That Also Allow 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 For Final Adoption; And Providing For An Effective Date.

Garrett explained this is the third time this has been before the Council, there have been no changes since last hearing.

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

MOTION: Zieg moved approval
SECOND: Bartus

Vote of the Motion:

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

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

Ordinance for First Public Hearing

Ordinance 2020-02 Amending The City Of Marathon’s Land Development Regulations, Chapter 103, Article 3, Table 103.15.2, 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) or Mixed Use (MU) That Also Allow 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 For Adoption; And Providing For An Effective Date.

Garrett explained this is the LDR version of ordinance 2019-16.

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

MOTION: Bartus moved approval
SECOND: Gonzalez

Vote of the Motion:

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

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

Resolutions for Adoption

***A. Resolution 2020-17**, Confirmation Of A City Council Approval As Disseminated In Resolutions 2018-116 & 117, Of A Request By GEM Homes LLC For A Conditional Use Permit And A Development Agreement, Pursuant To Chapter 102, Articles 8 And 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Development Agreement” And “Conditional Use Permits” Respectively,” With Proposed Densities Of Approximately 15 Affordable Housing Units Per Acre; Located At 250 Gulf Terrace; Which Is Legally Described As Part Of Lot 2 & Lots 8, 9 & Part Of Lots 7 & 10 Schmitt Subdivision, Section 2, Township 66, Range 32, Key Vaccas, Marathon, Monroe County, Florida; Having Real Estate Numbers 00101340-000000 And 00101340-000200 (As Stated In The Resolution), Nearest Mile Marker 51. (Removed from March 10th Agenda)

***B. Resolution 2020-31**, Authorizing A Work Authorization For Reynolds Construction For An Emergency Upgrade Of The Area 4 Air Pipeline In An Amount Not To Exceed \$101,622.82; Authorizing The City Manager To Enter Into Agreements In Connection Therewith, Appropriating And Expending Budgeted Funds; And Providing For An Effective Date

***C. Resolution 2020-32**, Approving The Ranking of Debris Removal Monitoring Firms, and Entering into Contracts With The Top Ranked Firm, Tetra Tech, Inc., For Emergency Disaster Debris Removal Monitoring Services On An As Needed Basis. Authorizing The City Manager To Execute The Agreement On Behalf Of The City And To Expend Reimbursable And Necessary Funds As Needed; And Providing For An Effective Date

***D. Resolution 2020-33**, Approving A Contract With Crypsis To Protect, Detect, And Respond To Cybersecurity Threats In An Amount Not To Exceed \$52,835 Annually; Authorizing The City Manager To Execute The Agreement, Appropriate Funds And Providing For An Effective Date.

E. Resolution 2020-34, Condemning Racism And Reaffirming Marathon’s Commitment To Fight For Racial Justice And Human And Civil Rights For All; And Providing For An Effective Date.

Bartus read the text of the Resolution.

MOTION: Bartus moved to approve

SECOND: Zieg

Senmartin requested language added to the resolution against police brutality.

Bartus amended his motion and Zieg seconded.

Sherriff Ramsay thanked Bartus for the resolution and explained the Sherriff’s office deputies take pride in policing ourselves, ninety nine percent of the officers are great; one percent do not deserve to wear the badge. Ramsay thanked everyone for their support.

Cook and Zieg thanked Ramsay and the MCSO for all they do.

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

***F. Resolution 2020-35** Authorizing A Work Authorization for Reynolds Construction for an emergency upgrade of the Area 3 and Area 6 Air pipeline In An Amount Not To Exceed \$258,67625; Authorizing The City Manager To Enter Into Agreements In Connection Therewith, Appropriating And Expending Budgeted Funds; And Providing For An Effective Date

Council Comments

Zieg thanked staff for all their efforts and commented that we need more information regarding opening the beach for the July 4th event, he would not be attending because of the size of the crowd. Zieg informed everyone that in 1973 Secretariat became the first Triple Crown winner in 25 years and no horse has since broken the record.

Senmartin wished everyone happy Independence Day and stated he was in favor of having the celebration, he held a Facebook poll and 69 percent wanted the beach celebration.

Gonzalez thanked staff and MSCO, wished everyone a happy Independence Day and reminded everyone to be careful.

Bartus thanked the Council and participants and wished everyone a happy July 4th and recalled the 1954 censure case of Congressman McCarthy.

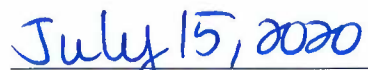
Cook thanked the staff and asked everyone to wear mask for safety and wash your hands. Cook explained his father help rescue the 101st airborne. Cook wished everyone a happy Fourth of July and reminded everyone to be safe.

ADJOURNMENT

With no further business to come before the Council, Mayor Cook adjourned the meeting at 7:32 pm by unanimous consent.

I certify the above represents an accurate summary of the virtual Council meeting of June 9, 2020


Diane Clavier, City Clerk


Date