

**CALL TO ORDER** - A Meeting of the City Council of Marathon, Florida was held on November 9, 2021, in the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida, Mayor Gonzalez called the meeting to order at 5:30 pm.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

**ROLL CALL - There were present:**

Councilmember John Bartus

Councilmember Steve Cook

Vice Mayor Mark Senmartin

Councilmember Dr. Daniel Zieg

Mayor Luis Gonzalez, comprising a quorum

Also, in attendance were:

City Manager, George Garrett

City Clerk, Diane Clavier

Attorney, Steve Williams

Planning Director Brian Shea

Finance Director, Jennifer Johnson

Building Official, Noe Martinez

Parks & Rec Director, Paul Davis

**Resolution 2021-102**, Accepting The Results Of The Municipal General Election Held November 2, 2021 For The Election Of Two At Large City Council Seats; And Providing For An Effective Date

**MOTION:** Bartus moved approval

**SECOND:** Zieg

**Vote of the Motion:**

Yes: Bartus, Zieg, Cook, Senmartin, Gonzalez

No: None

Absent: None

Abstain: None

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

Swearing in of Council Members - Gonzales was sworn in by his son and Wofsey was sworn in by his wife.

Mayor and Vice Mayor Selection – Wofsey nominated Bartus for Mayor. Cook nominated Zieg for Mayor.

Roll Call for Mayor Bartus

Cook – No  
Wofsey – Yes  
Gonzalez – Yes  
Zieg – Yes  
Bartus – Yes

Gonzalez nominated Zieg for Vice Mayor. There were no other nominations, and the vote was unanimous.

### **Approval of Agenda & Consent Agenda**

Councilmember Cook pulled the City Manager items under consent. Zieg added Charter Modification under City Council items. Garrett added a Presentation from Monroe County Mayor Coldiron and Salty's acquisition. Williams added Litigation Notice of Intent to File Suit.

**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

Bartus acknowledged Monroe County Mayor Michelle Coldiron and School Board Member John Dick

Veterans Day Proclamation The Council presented the proclamation to John Dick who accepted it on behalf of all the veterans of Marathon. John Dick informed everyone of the Veterans Parade beginning at 11:00 am on Thursday.

Building Inspection Ordinance 2021-18 Discussion (Councilmember Zieg) Zieg explained we had been discussing multi story buildings and the words "multi-story" was left out. Zieg asked the Council to consider inserting the words "two stories or higher." Zieg commented that with the current system, any complaints can prompt an inspection. Cook commented that 2,000 square feet did not bother him, and it

could be left in. Gonzalez questioned if the State was moving forward on new rules. Williams commented that the State was still talking about masks and mandates, and he was shocked it has not come to us yet, but he would rather have something on the books. Wofsey commented that there were a lot of older one-story buildings, and he was in favor of blanketing everyone equally. Martinez commented that single family units were not part of the recertification. Williams suggested starting with multi story buildings first. Zieg questioned if vacation rentals would be treated as commercial. Garrett commented that vacation rentals are single family homes. Martinez commented that the fire department checks vacation rentals for safety related issues

Frank Greenman – commented that vacation rentals have an inspection, and we also have the unsafe structure board. Greenman suggested a \$25 fee for the certification.

Bartus informed Greenman the property owner would have to pay the engineer or architect directly.

**MOTION:** Cook moved to bring back as an ordinance

**SECOND:** Gonzalez

**Vote of the Motion:**

Yes: Cook, Gonzalez, Wofsey, Zieg, Bartus

No: None

Absent: None

Abstain: None

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

Baseball Field Discussion (Gonzalez) Gonzalez explained the baseball diamond at the park and field were not adequate but could be upgraded for about \$20,000 each and asked Johnson if funding was available in the budget. Johnson commented that she could make it work with the existing budget.

Peter Chapman spoke for the field upgrade.

Council gave a head nod to move forward.

Landry Sayer Clean Up Day Discussion (Gonzalez) Gonzalez explained we are setting the round two clean up day for Sunday December 12<sup>th</sup> at 8:00 am starting at Coco Plum Beach.

Fire Pension Board Council Appointment – Garrett explained that Mary Rice had volunteered to serve on the board as the Council appointment. The Council gave a head nod of approval. Zieg thanked Mrs. Rice for volunteering.

Charter Modification (Zieg) Zieg congratulated Gonzalez and Wofsey on their race and explained the turnout was low for this election and would like the Council to consider a four-year term as suggested by the Supervisor of Elections, Joyce Griffith. Gonzalez agreed that there was no better time to do this. Cook also agreed with a four-year term. Bartus suggested two four-year terms with a four year stay out clause. Williams commented he would draft the change as directed. Gonzalez also liked the two four-

year terms with four years out. Zieg questioned if this could be on the same ballot. Williams stated he would have an answer and bring back both.

Monroe County Mayor Michelle Coldiron Presentation – Mayor Coldiron presented Hammer and Susan Runyon with an Honorary Conch Certificate.

**City Manager Report:**

Park and Recreation Report – Davis gave an overview of his written report.

Marathon Fire Rescue Report – Chief Johnson gave an overview of his written report and stressed that everyone should get vaccinated.

Building Report – Garrett asked if there were any questions, as the building official left the building.

Grants Update – Covelli informed everyone that the Rotary and Skate Park grant should have a shortlist out next week and gave an overview of her written report.

**Citizen Comments**

Diane Scott commented that the Council should be ashamed of their racist ways, she needs the chair back and the windows are broken at the church, and no one will fix them.

Marina Report – Garrett explained that Cannon was on vacation, but the Marina was running successfully.

MCSO Marathon Substation Report – Hiller gave an overview of the significant cases.

Wastewater Report – Garrett deferred any questions to Steve Williams to address litigation relating to wastewater in another item; the Council had no questions.

Code Report – Garrett reported that Lozier was out this week, the Code Department was down one staff member, but two were hired and will start next week. Zieg commented that the three feeder roads, especially Sombrero Beach Road is an embarrassment, there is all kinds of trash, empty garbage cans on Coco Plum and asked that the Code staff be encouraged to take a more active roll in enforcing our ordinance. Bartus agreed, there were bad displays of couches, and garbage.

Discussion and Direction regarding 107.58-107.62 – Williams provided a PowerPoint and explained that the sign ordinance was unconstitutional and therefore, unenforceable. Williams also explained that in order to curb the continued expansion of signs in the City of Marathon, the current code must be changed to one that is not based on the content of the sign, but instead is narrowly tailored to promoting some public aim, such as preventing traffic hazards or impingement on the rights-of-way. Williams explained the County recently changed its code and hired professionals to assist and spent a lot of time and money. Williams explained he was involved in the County's sign code and suggested we may want to look at it. Council agreed no need to reinvent the wheel or create a problem throughout the County.

Update Regarding Vehicles for Hire – Garrett explained the new software allows us to create an application although we are not enforcing it yet, our ability to regulate is not easy for Uber and Lyft, and there are minor revisions we would like to make to the Ordinance and will look at the details of who will manage it.

Recognition of Donation from Baptist Hospital – Garrett recognized the \$25,000 donation from Baptist for the City’s fitness court.

ENS Contract (\$51,000) Garrett explained the ENS contract will be put out to bid in early February or March and would like a month to month in the total amount of \$51,000.

**MOTION:** Zieg moved to approve  
**SECOND:** Gonzalez

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

MT Causley Contract (\$475,300) Garrett explained the annual extension to the contract to accommodate inspectors, it does not include the building official.

**MOTION:** Zieg moved to approve  
**SECOND:** Cook

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

Salty’s Acquisition – Garrett explained the opportunity to acquire the Salty’s property and explained the location would be an asset with the marina capacity, building on site and asked for direction to enter negotiations.

**MOTION:** Zieg moved to proceed with negotiations to acquire Salty’s and suspend the laydown rule.  
**SECOND:** Cook

**Vote of the Motion:**

Yes: Zieg, Cook, Gonzalez, Wofsey, Bartus

No: None

Absent: None

Abstain: None

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

Litigation and Intent to File Suit under the Clean Water Act and the Endangered Species Act – Garrett commented that FKAA will be in the same position. Williams explained that the Friends of the Lower Keys (“FOLKS”) provided notice of intent to take legal action regarding our shallow wells. Williams informed everyone this was turned over to our insurance carrier, and although they have not filed suit yet, it is anticipated, and we have been put on notice.

**Quasi-Judicial Public Hearings**

**Resolution 2021-103**, A Request For A Conditional Use Permit And Plat Approval Pursuant To Chapter 102 Article 10 And Article 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Subdivision Of Land/Plats And Re-Plats,” And “Conditional Use Permits” Respectively, For A Plat And Site Plan Approval As Submitted By Seaview Commons LLC For Vacant Land On Pescayo Ave, Which Is Described As Lot 1, Block 6 of Coco Plum Beach, Fat Deer Key Marathon, Monroe County, Florida, Having Real Estate Number 00363510-000000. Nearest Mile Marker 54.

The clerk swore in speakers. Council stated they had no exparte communication.

Shea explained the item, location, and conditions of approval. Shea recommended approval of the Seaview Common LLC’s Bonefish Harbor preliminary plat proposing five individual lots for single family residences

Mayor Bartus called for speakers, hearing none, closed public comments.

**MOTION:** Zieg moved approval of Resolution 2021-103

**SECOND:** Gonzalez

**Vote of the Motion:**

Yes: Zieg, Gonzalez, Cook, Wofsey, Bartus

No: None

Absent: None

Abstain: None

**Resolution 2021-104**, A Request For A Final Plat Approval Pursuant To Chapter 102 Article 10 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Subdivision Of Land/Plats And Re-Plats,” For A Plat And Site Plan Approval As Submitted By Seasons 16 LLC For Property Which Is Described As, The Westerly Part Of The West Half Of Block 8 Lot 11, Coco Plum Beach Subdivision, Fat Deer Key, Marathon, Monroe County, Florida, Having Real Estate Number 00363910-000000.

The clerk swore in speakers. Council stated they had no exparte communication.

Shea explained the item, location and conditions of approval and recommended approval of a preliminary plat subdividing one (1) previously subdivided parcel into two (2) lots each only having enough density for single family residences with the conditions outlined.

Mayor Bartus called for speakers, hearing none, closed public comments.

**MOTION:** Zieg moved approval of Resolution 2021-104

**SECOND:** Gonzalez

**Vote of the Motion:**

Yes: Zieg, Gonzalez, Cook, Wofsey, Bartus

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No: None  
Absent: None  
Abstain: None

**Resolution 2021-105**, Amending And Replacing City Of Marathon, Florida Resolution 2020-92 And The Development Agreement Attached Thereto To Conform To The December 8, 2020 City Council Vote Regarding Approval Of A Request By Boat Works Investments, LLC (Compass Pointe) For A Revision To The Approved Development Agreement (Resolution 2006-185 & Associated Extensions, Resolutions 2016-32, 2017-46, & 2018-64), Pursuant To Chapter 102, Article 8 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Development Agreement”, In Consideration Of A Recently Approved Conditional Use Permit (Resolution 2018-88) Involving Boat Works Investments, LLC And Tri-Star Affordable Development, LLC; This Revision Thereby Considering The Approval Of Twenty (20) Market Rate Dwelling Units, 15,000 Square Feet Of Commercial Square Footage, And Thirty-Four (34) Wet Slips; On Properties Located At And Adjacent To 39<sup>th</sup> Street Gulf And 747 Through 999 41<sup>st</sup> Street Gulf And 3905 Louisa Street, Which Are Legally Described As Part Of Block 2 & All Of Block 5, Lots 5, 6, 7, 8, 9, 10, 14, 15, 16, 17, 18 & 19 And Filled Bay Bottom North Of And Adjacent To Marathon Beach Subdivision, Block 1, Lot 1 Of Lincoln Manor Subdivision, Key Vacca, Monroe County, Florida, Having Real Estate Numbers 00337270-000000, 00337280-000000, 00337290-000000, 00337300-000000, 00337310-000000, 00337330-000000, 00103480-000100, 00337380-000000, 00337390-000000, And 00337470-000000. Nearest Mile Marker 49.

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

Williams asked that the Council approve the Resolution.

Mayor Bartus called for speakers, hearing none, closed public comments.

**MOTION:** Cook moved approval of Resolution 2021-105

**SECOND:** Gonzalez

**Vote of the Motion:**

Yes: Cook, Gonzalez, Wofsey, Zieg, Bartus

No: None

Absent: None

Abstain: None

**Ordinances For Second Public Hearing and Enactment**

**Ordinance 2021-24**, Amending The Code Of Ordinances Chapter 6 Entitled “Buildings And Building Regulations” Article III Entitled “Building Code” Sections 6-25 And 6-26 Entitled “Amendments To The Florida Building Code, Building” And “Amendments To The Florida Building Code, Existing Building” Respectively, Amending The Cumulative Period For Substantial Damage And Substantial Improvement; And Amending The Land Development Regulations Chapter 110 Entitled “Definitions”, Article 3 Entitled “Defined Terms”; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity;

Providing For The Transmittal Of This Ordinance To The Florida Building Commission; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

Shea informed the Council there were no changes since the first hearing.

Mayor Bartus called for public comment, hearing none, closed public comments.

**MOTION:** Bartus moved approval

**SECOND:** Zieg

**Vote of the Motion:**

Yes: Bartus, Zieg, Cook, Wofsey, Gonzalez

No: None

Absent: None

Abstain: None

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

**Ordinances for First Public Hearing**

**Ordinance 2021-25**, Approving A Revision To Comprehensive Plan Ordinance 2019-16 Correcting An Error In The Adopted Ordinance Language; Said Correction Is Made Based Upon Revisions To The Proposed Ordinance Language Provided To The City Council At Its Hearing Dated December 10, 2019; Said Revisions Were Motioned And Approved Unanimously By The City Council At The December 10, 2019 Council Meeting; The Effect Of The Council Approved Revisions Was To Remove A Proposed "Sunset Clause" And A Limitation On The Use Of Permanent RV Sites For Functional RVs And Travel Trailers; Providing For The Repeal Of Conflicting Provisions, Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; Providing For The Advertisement For A Second Hearing Upon DEO's Approval, And Providing For An Effective Date.

**Ordinance 2021-26**, Approving A Revision To Land Development Regulation (LDR) Ordinance 2020-02 Correcting An Error In The Adopted Ordinance Language; Said Correction Is Made Based Upon Revisions To The Proposed Ordinance Language Provided To The City Council At Its Hearing Dated December 10, 2019; Said Revisions Were Motioned And Approved Unanimously By The City Council At The December 10, 2019 Council Meeting; The Effect Of The Council Approved Revisions Was To Remove A Proposed "Sunset Clause" And A Limitation On The Use Of Permanent RV Sites For Functional RVs And Travel Trailers; Providing For The Repeal Of Conflicting Provisions, Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; Providing For The Advertisement For A Second Hearing Upon DEO's Approval, And Providing For An Effective Date.

Garrett recommended approval and explained the ordinances were transmitted to DEO improperly.

Steven Witzel – commented that he agreed with the ordinance.

**MOTION:** Zieg moved approval of Ordinance 2021-25



**SECOND:** Gonzalez

**Vote of the Motion:**

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

**MOTION:** Gonzalez moved approval of Ordinance 2021-26

**SECOND:** Zieg

**Vote of the Motion:**

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

**Ordinance 2021-27**, Amending The Future Land Use Map (FLUM) From Residential Medium (RM) To Mixed Use-Commercial (MU-C) For The Property Described As Block 2, Lot 2 First Addition to Seacrest, Key Vaca Marathon, Monroe County, Florida, Having Real Estate Number 00339240-000000; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

**Ordinance 2021-28**, Amending The Zoning Designation From Residential Medium (RM) To Mixed Use (MU) For The Property Described As Block 2, Lot 2 First Addition to Seacrest, Key Vaca, Marathon, Monroe County, Florida, Having Real Estate Number 00339240-000000; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

Shea explained the request to amend the FLUM from Residential Medium (RM) to Mixed Use Commercial (MU-C) and Rezone subject property from Residential Medium (RM) to Mixed Use (MU). Staff and Planning Commission recommended approval.

Mayor Bartus called for speakers, hearing none, closed public comments.

**MOTION:** Gonzalez moved approval of Ordinance 2021-27

**SECOND:** Zieg

**Vote of the Motion:**

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

**MOTION:** Zieg moved approval of Ordinance 2021-28

**SECOND:** Cook

**Vote of the Motion:**

Yes: Zieg, Cook, Gonzalez, Wofsey, Bartus

No: None

Absent: None

Abstain: None

**Resolutions for Adoption:**

**\*A. Resolution 2021-106**, Approving A Professional Services Agreement Between The City And Government Services Group, Inc. For Professional Services Related To The City's Annual Non-Ad Valorem Wastewater and Stormwater Special Assessment Programs, In An Amount Not To Exceed \$46,500 for Fiscal Year 2022-2023, and \$42,000 for Fiscal Year 2023-2024, and Fiscal Year 2024-2025; Authorizing The City Manager To Execute The Agreement And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date

**\*B. Resolution 2021-107**, Approving And Authorizing The City Manager To Enter Into An Agreement With Culver's Cleaning Company For Cleaning Services At Marathon City Hall, Fire Station And Utility/Public Works Building In An Amount Not To Exceed \$53,300 Per Year; And Providing For An Effective Date

**\*C. Resolution 2021-108**, Amending The City's Fiscal Year 2020-2021 Budget; And Providing For An Effective Date.

**\*D. Resolution 2021-109**, Authorizing The Sole Source Purchase Of (2) Power-PRO XT MTS High (Cots) With (2) ProCare Power-PRO Prevent Service Agreements In An Amount Not To Exceed \$33,687.86; Authorizing The City Manager To Appropriate Funds On Behalf Of The City; And Providing For An Effective Date.

**E. Resolution 2021-110**, Urging The Miami-Dade Board Of County Commission And Florida Department Of Economic Opportunity To Deny The Proposed Development Master Plan (Comp) Amendment Application CDMP 20210003, And Providing An Effective Date.

Bartus explained that similar resolutions have been passed by Islamorada and Monroe County. Bartus commented that the proposed development would create a bottleneck during hurricane evacuations, and could impact our water, such as shortages.

Mayor Bartus called for speakers, hearing none, closed public comments.

**MOTION:** Bartus moved approval of Resolution 2021-110

**SECOND:** Cook

**Vote of the Motion:**

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

**\*F. Resolution 2021-111**, Authorizing The City Manager To Execute A Release Of Unity Of Title On Behalf Of The City In The Form Attached To This Resolution Concerning Property Described As Part Of Government Lot 1, Section 9, Township 66 South, Range 32 East, On Key Vaca Monroe County Florida Having Real Estate Number 00102290-000000 And A Part Of Government Lot 1, Section 9, Township 66 South, Range 32 East, On Key Vaca Monroe County Florida; And Providing For An Effective Date.

**\*G. Resolution 2021-112**, Authorizing The City To Extend The Agreement With Ronald L. Book, P.A. For Professional Consulting And Lobbying Services Before The Legislature Of The State Of Florida; Authorizing The City Manager To Expend Budgeted Funds, And Execute The Extension Agreement; And Providing An Effective Date

**\*H. Resolution 2021-113** Accepting The Responsible Bid And Approving A Contract Between The City And Cakra, Inc.; In An Amount Not To Exceed \$526,127.00 For Bridge Repairs For The Coco Plum Bridge, 116<sup>th</sup> Street Bridge, And 112<sup>th</sup> Street Bridge; Authorizing The City Manager To Execute The Contract And Appropriate Funds On Behalf Of The City; And Providing For An Effective Date

**\*I. Resolution 2021-114**, Approving And Accepting A \$8,856.00 Grant From The Florida Department Of Agriculture And Consumer Services For (6) Full Sets Of Turnout Gear; And Providing For An Effective Date.

**\*J. Resolution 2021-115**, Approving an Agreement between the City of Marathon, and Jeff Vastola for Code Enforcement Special Magistrate Services; Authorizing the Mayor to Execute the Agreement on Behalf of the City; and Providing for an Effective Date.

**Citizen Comments**

Ingrid Tyree – commented that there were no codes to require mobile homes to do anything and asked that it be put on the agenda next month.

Diane Scott – commented that the Sherriff’s office does not enforce the law, she called the Sherriff’s office regarding someone defecating on the church walls and she has the authority at the Church to trespass people.

**Council Comments**

Wofsey wished everyone a happy Veterans Day and asked everyone to come out to the parade.

Cook thanked Johnson and Williams for work they do. Cook read “In Flanders Fields” and commented that 106 years ago in WWI in one battle that lasted 33 days 122,000 soldiers lost their lives and wondered

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how this country is becoming numb to the insidious breakdown of our great nation and around the world, how we leave people behind and broken yet again.

Gonzalez thanked staff and informed everyone Marathon High School Cross Country is going to State Championships. Gonzalez asked everyone to do something positive on Thursday.

Zieg congratulated the two winning Councilmembers gave an overview of historical events that happened on this date and thanked staff

Bartus thanked staff and Rotary and all the volunteers. Bartus informed everyone he was married last weekend and raised thousands for Rotary and Presents in Paradise. Bartus congratulated Mr. Wofsey and Gonzalez. Bartus commented that the Country failed in the contract with vets, not honoring agreements with them.

**ADJOURNMENT**

With no further business to come before the Council, Mayor Bartus adjourned the meeting at 7:49 pm by unanimous consent.

I certify the above represents an accurate summary of the regular Council meeting of November 9, 2021.

  
Diane Clavier, City Clerk

  
Date