

City of Marathon  
City Council Action Minutes  
January 11, 2022 5:30 pm City Council Meeting Minutes

**CALL TO ORDER** - A Meeting of the City Council of Marathon, Florida was held on January 11, 2022, in the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida, Mayor Bartus called the meeting to order at 5:30 pm.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

**ROLL CALL - There were present:**

Councilmember Steve Cook

Councilmember Gonzalez

Vice Mayor Dr. Daniel Zieg

Mayor John Bartus, 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

Marina Director, Sean Cannon

Public Works Director and Engineer, Carlos Solis

Code Director, Ted Lozier

Fire Chief, John Johnson

Grants Coordinator, Maria Covelli

Monroe County Sherriff Office, Captain Don Hiller

Monroe County Sherriff Office, Lieutenant Mark Jones

**Approval of Agenda & Consent Agenda**

Zieg added a Taxi Ordinance Discussion. Gonzalez pulled Resolution 2022-07. Bartus added a discussion of Jet Skis as item 5D moved item 6K to 5E. Williams added item 5F, City Executive Shade Session. Garrett moved item 10E after 9A.

**MOTION:** Gonzalez moved to approve the agenda as amended.

**SECOND:** Zieg

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

City Council Items:

\* Approval of Minutes

Martin Luther King Jr. Day of Service – The Council presented the proclamation to Reverend Larry White.

Taxi Ordinance Discussion (Zieg) Zieg commented the taxi ordinance had been discussed previously and it was supposed be implemented the first of the year and come back with an update. Zieg explained he did not want this to slip between the cracks. Zieg questioned if any of the taxi’s had been inspected yet. Lozier reported that staff could process through Open Gov software, and the decals were in development, staff has not started but they are getting ready to implement and will include checks on drivers.

Jet Skis – FWC Officer David Dipre explained there had been a number of problems concerning jet skis, there has been complaints of jet skis operating in shallow areas and getting close to properties. Officer Dipre explained there was a hefty fine for operating a jet ski on plane within one hundred yards of shore and suggested that he could work with the City Attorney to educate people on the rules. Zieg suggested including the information at the launch sites. Williams commented that he and Dipre would get it worked out.

Discussion of Section 7 of the Marathon City Charter – Cook commented that it appeared that this selection of a nominee for the vacated seat had been pre-selected by Council prior to this meeting he had heard from many people. Cook explained he was very upset not due to who, but how. Cook commented that it brought back to mind that he was informed that the Mayor position had been pre-arranged, and Mr. Garrett was to be the new city manager prior to the usual candidate search and interview process. Cook commented it is not about the people put in these positions, it is about the process. Cook suggested the Council call a special call meeting and ask for applications for those wanting to fill the seat. Bartus commented that he and Williams discussed the procedures to fill the seat.

**MOTION:** Gonzalez moved to continue to a special call meeting with an application process between now and February 4, 2022.

**SECOND:** Cook

Williams explained the position must be filled by February 4<sup>th</sup>. Gonzalez commented that we are in an unfortunate situation. Gonzalez stated we are a much better community than some of the messages he received. Bartus thanked everyone who submitted interest.

**Vote of the Motion:**

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

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

Shade Session – Williams read the following into the record: Notice is hereby given that the City Council consisting of Mayor John Bartus, Vice Mayor Dr. Daniel Zieg, Councilmembers Steve Cook and Luis Gonzalez, City Manager George Garrett, and City Attorney Steve Williams, and Special Legal Counsel Gary Perko and David Childs will meet at 4:30 pm or as soon as possible thereafter on Tuesday, February 8, 2022 at the Marathon City Hall , 9805 Overseas Highway in an Attorney-Client Session, pursuant to Section 286.011(8), Florida Statutes, to discuss litigation strategy and advice to the City Attorney in regard to the following case: Folks-Friends of the Lower Keys, LLC. v. City of Marathon, Florida, Defendant; pending in the United States District Court for the Southern District of Florida, Case No.: 4:22-cv-100002. The session is estimated to last thirty minutes.

**City Manager Report:**

Garrett informed the Council of the ribbon cutting event for the opening of the old Seven Mile Bridge to be held on the 12<sup>th</sup> of January. Garrett also informed every one of the cleanup and education event on Grassy Key on January 22<sup>nd</sup> from 9 am until noon.

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 informed everyone that there were almost 3,000 calls in 2021. Chief informed station fourteen hosted the Wounded Warriors again and lunch was provided by Irie Island Eats.

Public Works Report – Garrett informed everyone that Solis was out of the office and testing for Covid, but he would try to answer any questions.

Grants Update – Covelli gave an overview of her report. Council thanked her for doing a great job.

Marina Report – Cannon gave an overview of his written report and informed everyone the Marina was very busy with a waiting list.

MCSO Marathon Substation Report – Lt. Jones gave an overview of the significant cases and informed everyone they were very busy with over 5,000 calls for the month. Lt. Jones informed everyone three of the Sherriff's Deputies were awarded with a lifesaving award.

Wastewater Report – Saus reported that the town was busy, and flows were up, but there were no issues.

Code Report –Lozier gave an overview of his written report and informed everyone that he was distributing a flyer to the agents regarding trash collection. Gonzalez stated this has been an ongoing issue that has been brought up at almost every meeting and he would like to change the wording “ Please note, violators are subject to citations and fines” to remove the word subject and start fining and issue citations. Zieg commented that months ago, we had asked that citations go both to the homeowner and the manager of the rental. Cook suggested a garbin. Garrett commented that they have ordered stickers for cans being left out and are moving forward.

Building Report – Martinez commented that the report was in front of the Council. Cook asked how the computer program was working. Martinez responded it is going to get fixed.

Permission to utilize Oceanfront Park for the annual Baptist Health South Foundation Fundraiser and to serve beer, wine, and alcoholic beverages under managed circumstances on February 26, 2022

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

**Vote of the Motion:**

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

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

**Ordinances for Second Public Hearing and Adoption**

**Ordinance 2021-10** Approving The City’s “10-Year Water Supply Facilities Work Plan” As Required By The State Department Of Economic Opportunity Under Chapter 163, Part II, F. S.; To Include Updated Water Demand Projections, Identify Alternative And Traditional Water Supply Projects, And Describe Conservation And Reuse Activities Needed To Meet The Projected Future Demands. Planning Tools Are Available On The District’s Website For Your Use And District Staff Are Available To Provide Technical Assistance To Update The Work Plan, Including Reviewing Draft Work Plans Prior To Formal Plan Amendment Submittal; Providing For Severability; Providing For Repeal Of Conflicting Provisions; Providing For 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 comprehensive plan to include an updated 10-year water supply facilities work plan and the update has been updated to reflect those items in the ORC report.

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

**MOTION:** Zieg moved approval of Ordinance 2021-10  
**SECOND:** Cook

**Vote of the Motion:**

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

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

**Ordinance 2021-23**, Amending The Comprehensive Plan By Amending The Existing Property Rights Element To Include Further Protections Of Private Property Rights; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The 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 ORC report stated that the property rights should be as a separate element, so rather than adding to the existing property rights under Chapter 1, a new Chapter 10 was created for the sole purpose of a Private Property Rights Element.

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

**MOTION:** Cook moved approval of Ordinance 2021-23  
**SECOND:** Zieg

**Vote of the Motion:**

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

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

**Ordinance 2021-29**, Amending Chapter 6, Article III (“Unsafe Structures And Equipment”) Of The Code Of Ordinances Of The City Of Marathon By Amending Section 6-95 (c) II, Which Shall Provide For A Certification And Recertification Process For Existing And Future Multistory Structures; Providing For The Repeal Of All Ordinances Or Parts Thereof Found To Be In Conflict; Providing For Severability; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date.

Williams explained there has not been any legislation out of Tallahassee preempting our ordinance. There have been no changes since first reading.

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

**MOTION:** Zieg moved approval of Ordinance 2021-29  
**SECOND:** Gonzalez

**Vote of the Motion:**

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

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

**Ordinance 2021-30**, Amending Section 5, Paragraph 2, “Term Of Office” To Change The Typical Term Of Office For City Council Members To Four Years; Providing For Copies Of These Charter Amendments To Be Available For Public Inspection; Providing For The Clerk To Utilize The Services Of The Monroe County Supervisor Of Elections; Providing For Severability; Providing For Inclusion In The Charter/Conformity Of Amendments; And Providing For An Effective Date

Williams explained the changes considering recent events. Williams read into the record the addition at the end of Section 5 (2): “In the event a Councilmember fails to complete a full term for any reason, the vacated seat shall not cause the rotation of elected members to become permanently out of sync with a three or two candidate election cycle.” Williams read the addition at the end of 5 (d) (2): “At the next regularly scheduled election, the person receiving the fewest number of votes, but still winning a vacant seat shall serve a shorter term as necessary to maintain a regular election cycle of only 3 or 2 seats being open for election or re-election.”

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

**MOTION:** Zieg moved approval of Ordinance 2021-30 with additions Williams read.  
**SECOND:** Gonzalez

**Vote of the Motion:**

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

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

**Ordinances for First Public Hearing**

**Ordinance 2022-01**, Modifying Section 32-2 Of The City Code Of Ordinances, ‘Regulation Of Wrecker Operators Who Provide Towing And Storage Services At The Request Of Law Enforcement Officers;’ Providing For A Change In Who May Request Service Pursuant To Section 32-2 (d); Providing For The Removal Of Detailed Rate Provisions From The Ordinance; And Providing That Such Rates Be

Established By Resolution From Time To Time Based On An Assessment Of Actual Cost Of Operations (Vehicles, Labor, Insurance, CPI, Etc.); Providing For Severability; Providing For Incorporation Into The Code Of Ordinances; And Providing For An Effective Date

**Resolution 2022-05**, Pursuant To Section 32-2 (d) Adopting Rates For The Removal And Storage Of Wrecked Or Disabled Motor Vehicles, Abandoned Vehicles, Or Vehicles Parked In Prohibited Or Restricted Areas; And Providing For An Effective Date.

Garrett explained that the rates had not been modified in 16 years and based on discussions with existing tow operators in the City of Marathon, the rates and fees provided address towing and storage service costs currently associated with such business operations

Bill Pruitt spoke for the Ordinance and Resolution.

**MOTION:** Zieg moved approval of Ordinance 2021-01

**SECOND:** Cook

**Vote of the Motion:**

Yes: Zieg, Cook, Gonzalez, Bartus

No: None

Absent: None

Abstain: None

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

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

**MOTION:** Gonzalez moved approval of Resolution 2022-05

**SECOND:** Cook

**Vote of the Motion:**

Yes: Gonzalez, Cook, Zieg, Bartus

No: None

Absent: None

Abstain: None

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

**Citizen Comments**

Kathy Walters thanked the Council for approving the Celtic Festival and thanked the Fire Department, Lt. Kellenberger, and Officers Malmpoint, Brag, Worth and Quintero. Walters also thanked Hammer, Duane, Stephanie, Alli, Andre and Paul in the Parks Department and said it was a pleasure working with them.

Diane Scott spoke.

**Resolutions for Adoption:**

\* **Resolution 2022-01**, Accepting The Sole Submitted Proposal For Beach Cleaning Services For Cocoplum And Sombrero Beach Parks; Authorizing The City Manager To Enter Into An Agreement With Beach Raker LLC In An Amount Not To Exceed \$157,200.00; Authorizing The City Manager To Execute The Agreement And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date

\* **Resolution 2022-02** Authorizing A “Sole-Source” Purchase Pursuant To The City’s Purchasing Policies And Procedures And Approving The Purchase of Scrubber Media Refill from Syneco Systems, Inc. for Service Area 3, In An Amount Not To Exceed \$80,392; Authorizing The City Manager To Enter Into Agreements In Connection Therewith, Appropriating And Expending Budgeted Funds; And Providing For An Effective Date

\* **Resolution 2022-03**, Providing Acceptance Of Amendment Two To Subrecipient Agreement Between The Department Of Economic Opportunity (DEO) and City of Marathon for Agreement I0094, CDBG-DR Voluntary Home Buyout Program; And Providing For An Effective Date

**Resolution 2022-04**, Authorizing The Purchase Of Real Property From Marathon Wireless Communications Inc (Re No. 00105320-000000); Authorizing The City Manager To Execute The Contract For Sale, Negotiate Terms, And To Consummate The Purchase Through All Closing Documents In An Amount Not To Exceed Two Hundred Thousand Dollars (\$200,000); Appropriating Funds And Providing For An Effective Date.

Shea explained the item for conservation the funding will come from impact fees. Gonzalez asked Shea to expand. Shea explained this may also help our insurance rating due to more open space and each change in CRS level can take 5 percent off our flood insurance and benefits the City by eliminating a takings case.

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

**MOTION:** Zieg moved approval of Resolution 2022-04

**SECOND:** Cook

**Vote of the Motion:**

Yes: Zieg, Cook, Gonzalez, Bartus

No: None

Absent: None

Abstain: None

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

**Resolution 2022-06** Pursuant To Section 32-31 Identifying The Golf Course Side Of Sombrero Boulevard As An Area That Prohibits Parking Except In Designated Parking Areas By Passenger Vehicles Only And



Further Prohibits Parking of Trailers Of Any Type, RVs, Travel Trailers, Fifth Wheels, And Other Similar Vehicles; And Providing For An Effective Date.

Garrett explained that there had been many complaints about boat trailers or similar types of vehicles, particularly how disorderly it is. Gonzalez thanked everyone who helped removed the vehicles that were not registered, tagged etcetera and who cleaned up all the eyesores. Gonzalez stated he had concerns that passage of this resolution will open this up to everyone wanting this. Gonzalez questioned how we are planning to address other neighborhoods and had concerns this would snowball. Cook questioned why the City would not just abandon the right of way.

Bill Pruitt spoke

Zieg commented that Gonzalez had a very valid point, and he would like to delay this to rework it.

**MOTION:** Zieg moved to delay the vote

**SECOND:** Cook

**Vote of the Motion:**

Yes: Zieg, Cook, Gonzalez, Bartus

No: None

Absent: None

Abstain: None

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

**Resolution 2022-07**, Awarding contract for the Construction of Chemical systems Upgrades Project To Reynolds Construction, LLC.; Approving Contract in the Amount of \$2,715,000; Authorizing The City Manager To Execute The Contract And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date. This work may qualify for reimbursement through the ACOE Grant funding.

Saus explained this project to raise the chemical feed skids above the 500-year flood elevation thus eliminating any repeat of the damages caused by Irma. Saus informed everyone due to Covid, the project drug out longer than it should, we have taken out raising the tank portion and FEMA may still fund this project.

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

**MOTION:** Zieg moved approval of Resolution 2022-07

**SECOND:** Gonzalez

**Vote of the Motion:**

Yes: Zieg, Gonzalez, Cook, Bartus

No: None

Absent: None

Abstain: None

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

**H. Resolution 2022-08**, Authorizing A Three-Year Lease Agreement Between The City Of Marathon And The Marathon Sailing Club For The Use Of The End Of 33<sup>rd</sup> Street For Various Recreational Activities; Authorizing The City Manager To Sign The Lease Agreement; And Providing For An Effective Date.

Charlotte Quinn spoke for the lease agreement.

**MOTION:** Zieg moved approval of Resolution 2022-08

**SECOND:** Gonzalez

**Vote of the Motion:**

Yes: Zieg, Gonzalez, Cook, Bartus

No: None

Absent: None

Abstain: None

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

**\*I. Resolution 2022-09**, Approving Change Order No. 1 To The Professional Service Agreement Between The City And Cardno, Inc., For Engineering and Inspection Services For The Ongoing Bridge Repair Project In An Amount Not To Exceed \$57,625.00; Authorizing The City Manager To Execute The Contract And Expend Funds On Behalf Of The City; And Providing For An Effective Date.

**\*J. Resolution 2022-10**, Accepting A Grant Award From The Incumbent Worker Program Through CommHIT, Rural Roads to Connected Care; And Providing For An Effective Date

**\*K. Resolution 2022-11**, Approving The Professional Service Agreement Between The City And K2M Design Inc. For Programming And Conceptual Plans For The 33<sup>rd</sup> Street Corridor Development Project In An Amount Not To Exceed \$68,600.00 ; Authorizing The City Manager To Execute The Contract And Expend Funds On Behalf Of The City; And Providing For An Effective Date.

**\*L. Resolution 2022-12** Approving The Revised And Rededicated Conservation Easement For 10001 Gulf Of Mexico Blvd. (RE No. 00358230-000101) In Partial Resolution Of Code Case C-21-83; And Providing For An Effective Date.

**M. Resolution 2022-13** Approving Change Order No. 5 To Contract Between The City And Discount Rock & Sand, Inc. In The Current Amount Of \$123,237.50 For Construction Of Sombrero Area Stormwater Improvements; Increasing The Contract In An Amount Not To Exceed \$7,500.00 to Repair Existing Pavement Damage; Authorizing The City Manager To Execute The Change Order And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date.

Gonzalez commented that he had received many complaints and asked when it would be completed. Garrett responded he would speak with Solis.

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

**MOTION:** Gonzalez moved approval of Resolution 2022-08

**SECOND:** Zieg

**Vote of the Motion:**

Yes: Gonzalez, Zieg, Cook, Bartus

No: None

Absent: None

Abstain: None

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

**\*N. Resolution 2022-14,** Approving Changer Order #1 for Engineering Services for Area 3 Shallow Well FDEP RAI #2 Response And Further Geotechnical Investigations” To The Weiler Engineering Corp. In The Amount Of \$89,000.00. Authorizing The City Manager To Execute The Contract; And Provide For An Effective Date.

**\*M. Resolution 2022-15,** Approving A One Year, Renewable Contract Agreement With Sarah Matthis To Provide Services To The City As A Public Information Officer; And Providing For An Effective Date.

Garrett reported that the Florida Keys Days will be held February 9 through the 11<sup>th</sup> and our lobbyist is working to develop scheduled meetings. Garrett explained as Session opens, there are now two Bills that we have asked our lobbyist to watch carefully or oppose. SB 280, if passed would provide how an affected party could challenge an Ordinance as “arbitrary or unreasonable.” Garrett informed everyone Senate Bill 512 concerns us less, but it is the first Vacation Rental Bill of the season. Barring some concerns about the meaning of some terms in the language of the Bill as it would concern the City’s current exception, we believe that that Bill does not harm us. We will be tracking this Bill closely and will be keeping an eye open for similar Bills. Garrett also informed everyone that the staff has the final census numbers for 2020 which will factor into a reevaluation of the hurricane evacuation model and there were very few units left in BPAS and it is getting very tight. Garrett reported the City is working with K2M after we closed on the 7 Mile Marina property.

**Citizen Comments**

Diane Scott – Commented she felt the City needed its own police department.

**Council Comments**

Cook thanked staff, Marathon Fire Rescue, MCSO, FWC, USCG, and every day should be LEO appreciation day. Cook thanked his wife Sheila and informed everyone they would be celebrating their 25<sup>th</sup> wedding anniversary. Cook read historical quotes from Ronald Regan, Dr. King, John F. Kennedy, and Gandhi.

Gonzalez thanked staff, MCSO, Marathon Fire Rescue and thanked the wrecker representatives for coming and for what they do. Gonzalez wished his granddaughter and brother a happy birthday.

Zieg gave an overview of historical events that happened on this date, thanked staff, and uniformed personnel for protecting us. Zieg informed everyone that AHEC is performing dentistry for children starting at \$10. Zieg commented the Wounded Warriors was a great event and thanked Chief and Veterans.

Bartus thanked everyone already mentioned and revealed the opening details of the Old Seven Mile Bridge, a lot of people worked hard to make this happen; the State, County, City, Save Old Seven and Margie Mearns.

**ADJOURNMENT**

With no further business to come before the Council, Mayor Bartus adjourned the meeting at 7:14 pm by unanimous consent.

I certify the above represents an accurate summary of the regular Council meeting of January 11, 2022.



Diane Clavier, City Clerk



Date