

CALL TO ORDER - A Meeting of the City Council of Marathon, Florida was held on January 10, 2023 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 Landry

Councilmember Matlock

Councilmember Smith

Vice Mayor Robyn Still

Mayor 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

Parks & Rec Director, Paul Davis

Utilities Director, Dan Saus

Deputy Utilities Director, Libby Frazier

Public Works Director, Carlos Solis

Building Official, Gerard Roussin

Code Director, Ted Lozier

Monroe County Sherriff's Office Captain Hiller

Approval of Agenda & Consent Agenda

Still added Seafood Festival request to allow alcohol to be served March 11th and 12th. Gonzalez removed Resolution 2023-11 from the consent agenda and added Meeting start time change for the February 14th meeting as well as the round table meetings. Matlock pulled Resolution 2023-06 from the consent agenda. Garrett removed MCSO Marathon substation report and wastewater utilities report from the agenda.

MOTION: Still moved to approve the agenda as amended.

SECOND: Smith

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

*Approval of Minutes

Martin Luther King Jr. Day of Service Proclamation – Pastor Larry White along with Doris Hawkins, Erica Stewart and Charlotte Robins accepted the proclamation and Pastor White invited everyone to St. Paul A.M.E. on Monday at Noon for an ecumenical service.

BPAS Fee Discussion (Councilmember Smith) (Continued from December 13, 2022) Mayor Gonzalez suggested we discuss this item when we get to Resolution 2023-05.

Non-Profit Grants Discussion/County's Procedures (Councilmember Still) (Continued from December 13, 2022) Still asked the Council to consider bringing back the grants to the nonprofits. Landry also commented that he would like to see it come back. Williams commented that City staff could vet the applicants and the Council could assign the numbers. Smith commented he would like City staff to vet the applicants. Clavier commented that she would send the Council the previous application/criteria and samples of what was provided and granted previously.

Seafood Festival Request – Still explained the request to allow alcohol to be served on March 11th and 12th.

MOTION: Smith moved approval

SECOND: Gonzalez

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

Gonzalez informed everyone the February 14th meeting would begin at 4:30 pm and the roundtable workshop meetings will be the fourth Tuesday of the month and would begin at 4:30 pm. Garrett commented that the January 24th meeting to discuss vacation rentals, we will have a live software presentation and we would invite the tax collector, a representative from the sheriff's office and Mr. Konrath with Marathon Garbage Service.

City Manager Report

- * ~~A. MCSO Marathon Substation Report~~
- * B. Grants Update
- * C. Building Report
- * D. Park and Recreation Report
- * E. Marathon Fire Rescue Report
- * F. Marina Report
- * G. Code Report
- * ~~H. Wastewater Utilities Report~~
- * I. Public Works Report

Council Update And Request For Specific Direction Concerning The Amendment Of The City's Building Permit Fee Schedule **CONTINUED DISCUSSION FROM DECEMBER 13TH MEETING.**

Garrett explained that over the last three years we have built up a budget surplus. After Irma, there was a surge of development that led to the surplus which the City cannot legally hold. We are lowering our fees going forward, but part of the last discussion was to refund. Matlock suggested refunding the fees. Still asked what if they have moved, divorced, transferred the property, etc. Williams explained the final percentage will be the nightmare and will eat up staff time. Williams also mentioned that if we reduce the rates going forward, there is no issue. If you refund the fees, one or more of you having pulled a permit may be ineligible to vote because of a voting conflict (FS 112.3413(3)) Williams advised he has contacted the ethics commission and explained he would request an informal opinion. Smith asked for the methodology and asked that this be reviewed on an annual basis so that this does not happen again and asked if we were budgeting appropriately. Landry asked that we go back two years and pay as much back as we can. Still commented that we have to contact ethics before we can make a decision. Williams commented that he would have private discussions with each of the Council. Still asked that this be done as quickly as possible and be ready, if possible, to vote on this next month. Smith stated he would like to see the numbers from Raftelis and asked if they would be ready. Garrett stated they would need direction from us first, but we need to see if there is a voting conflict first. Garrett suggested a formal discussion on the 24th along with the settlement agreement.

Permission To Develop A Scope Of Work And Estimated Costs, Seek Bids, And Develop Contracts Intended To Replace The Air Conditioning System At City Hall. Garrett explained this side of the building (the Council Chambers) is the only side with air conditioning, and he would like to move forward to replace the system.

Citizens' comments

Terrell and Joanna Smith – complained about the flooding on 92nd Court.

Garrett explained the City tried to work out an agreement some years ago to allow the City to use both sides of the street using an easement but could not get all the parties to agree but would try again.

Mike Millard – regarding nonprofit grants, commenting that he donates to charities, when the City does this, it is taxpayer's money, you should let taxpayers decide and let your employees volunteer for charities.

Quasi-Judicial Public Hearings:

Resolution 2023-01 Consideration Of A Request For A Conditional Use Permit For A Plat And Site Plan Approval As Submitted By QOF, Inc. For A Plat Pursuant To Chapter 102, Article 10 Of The City Of Marathon Land Development Regulation (LDRS) Entitled “Subdivision Of Land/Plats And Re-Plats,” Particularly, 4800 Overseas Hwy Unit 14 Which Is Described As Thompson And Adams Subdivision PB2-24, Part Lot 4 And Adjacent Filled Bay Bottom And Adjacent Bay Bottom (A/K/A Parcel D & Bay Bottom Parcel A), Section 10, Township 66 South, Range 32 East, Key Vaca, Marathon, Monroe County, Florida, Having Real Estate Number 00327140-000200. Nearest Mile Marker 50.

The Clerk swore in speakers. Council stated they did not have exparte communications.

Shea explained the request for a conditional use. Shea explained the conditional use request and preliminary plat proposing five individual lots for single family residences. Shea recommended conditional approval. Smith commented he had concerns regarding the plat process. Shea commented that this will come back to Council.

Terra Duey for the applicant commented she would be happy to answer questions.

The Mayor called for Speakers.

Patricia McGrath – spoke against the project and stated that QOF allows investors and is not owned by people living in Florida, and Marathon was overdeveloped.

Smith clarified that both parcels were outside of the opportunity zone.

MOTION: Landry moved to approve.

SECOND: Gonzalez

Matlock commented that legally some things we cannot deny, and he would be happy to speak with anyone after the meeting.

Vote of the Motion:

Yes: Landry, Gonzalez, Matlock, Smith, Still

No: None

Absent: None

Abstain: None

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

Resolution 2023-02 Consideration Of A Request By David Crum For A Conditional Use Permit, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (“the Code”) Entitled “Conditional Use Permits”, Authorizing The Development Of A Restaurant/Bar,

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Marina/Boat Rentals, Retail Shop/Convenience Store, and Affordable Housing Units At The Property Located At Vacant Land Overseas Highway, Which Is Legally Described As 11 66 32 Key Vaccas Part Government Lot 2 and Bay Bottom North Of And Adjacent To Part Lot 2, Marathon, Monroe County, Florida, Having Real Estate Number 00103770-000000. Nearest Mile Marker 50.

The Clerk swore in speakers. Council stated they did not have exparte communications.

Shea explained the request for a Conditional Use Approval for the development of a restaurant/bar, marina/boat rentals, retail shop/convenience store and affordable housing units as well as zoning and existing conditions of the now vacant land. Gonzalez commented he would like at least half of the affordable housing be built before the restaurant. Smith questioned how they would get the allocations. Shea explained this could be accomplished by award, purchase, or transfer. Garrett commented that the School Board has fifty allocations in Marathon.

David Crum, the applicant, asked if there were any questions. Williams asked if he was willing to tie the conditional use to the affordable units. Crum responded not today.

The Mayor called for Speakers.

Charlotte Quinn – requested a taller fence, and tall trees as a buffer, since without those barriers, the bird center would be looking at Garbage dumpsters.

Shea explained the Council could add an eight-foot fence and additional landscaping as a condition.

Smith commented the curb cut is narrow and dangerous, could we add a condition of an addition of a merge lane or deceleration lane. Shea commented we could add a condition that they seek approval from DOT for this.

Patricia McGrath – spoke against the project, over the last couple of years, the developers win. McGrath questioned how many restaurants and bars we need and asked Councilmember Smith to ask Shea how many frontage feet is there on US1.

Shea responded fifty-two feet.

Shea explained we have an affordable housing crisis, and he had been working for the City for nine years and had written documents regarding affordable housing, has been involved in the affordable task force. The Council explained the changes they wanted to the conditions that they previously discussed including affordable housing comes first, since a precedence had already been set doing this previously. They set 20 percent of the units to be low and very low income restricted.

Katherine (last name unknown) architect for the project asked to clear up a few things: The applicant was a local and is very sympathetic to the concerns of the bird center and Crane Point and had agreed to the trees and fence and the applicant understands employee housing needs to be provided.

MOTION: Smith moved to approve subject to the 20 percent affordable needs to be very low and low income, an eight-foot buffer fence and their best efforts with FDOT for a curb land or deceleration lane or right turn only signage.

SECOND: Matlock

Vote of the Motion:

Yes: Smith, Matlock, Landry, Still, 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 2023-01, Amending The City’s Code Of Ordinances, Chapter 26, “Streets, Sidewalks, And Other Public Places.” In Order To Modify A Portion Of The Chapter, To Add A New Article IV, And Renumber Articles And Sections; Accordingly, And Providing For An Effective Date.

Shea informed everyone of a correction to the ordinance that Section number 36-92 should be 26-92. Shea explained the Ordinance creates similar code language for the maintenance of private streets to mirror the language that exists for public streets. Matlock stated he was concerned with the \$500 fine. Shea explained the fine amount was already in our code. Shea explained fire, emergency response, utility services (public and private), mail and package delivery, garbage service and other franchises access and assist residents on private streets and easements. Maintaining the functionality of these streets and easements allows this to continue without interruption. This code section allows for a mechanism to ensure that there are standards and penalties consistent with other sections of the code.

The Mayor called for Speakers, hearing none, closed public comments.

MOTION: Gonzalez moved approval

SECOND: Smith

Vote of the Motion:

Yes: Gonzalez, Smith, Landry, Matlock, Still

No: None

Absent: None

Abstain: None

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

Resolutions for Adoption:

***A. Resolution 2023-03** Authorizing The Purchase Of Cancer Decontamination Equipment And Installation Fees For Station 14, In An Amount Not To Exceed \$37,995.00; Authorizing The City Manager To Appropriate Funds On Behalf Of The City; And Providing For An Effective Date.

***B. Resolution 2023-04** Awarding The Contract For Modification The Area 3 Vacuum Main To Reynolds Construction, LLC In An Amount Not To Exceed \$39,890.00; Authorizing The City Manager To Enter Into Agreements In Connection Therewith, Appropriating And Expending Budgeted Funds; And Providing For An Effective Date

C. Resolution 2023-05, Adopting A Fee Schedule For The Donation Of Moneys Either For The Land Acquisition Or For Affordable Housing As Provided In Section 107.09 1. And 2. "Lot Dedication Or Cash In-Lieu Of Dedication," As Part Of The BPAS Scoring System; Providing For An Effective Date

Shea explained the item and a few recommendations. Landry suggested increasing the time the owner occupied had to live in the home. Shea explained that would require a land development regulation to be approved. Gonzalez questioned if the owner occupied had given money for points, they may want a refund. Smith suggested to stick to what the code requires, the issue was last year, payments went up, the dollar amounts were problematic. Matlock suggested it was too late in the game to make changes, and it should be left alone. Smith commented he would like it to be grandfathered in, anyone prior to June 14th. Shea informed everyone no one paid fees since July.

The Mayor called for Speakers, hearing none, closed public comment.

MOTION: Smith moved approval, grandfathering effective July 13th after being subject to revised fees.

SECOND: Still

Vote of the Motion:

Yes: Smith, Still, Matlock, Landry, Gonzalez

No: None

Absent: None

Abstain: None

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

D. Resolution 2023-06, Approving The Professional Service Agreement Between The City And Bermello Ajamil & Partners, Inc. For Civil Engineering Design Services Associated With The Re-Development of the Quay Property In An Amount Not To Exceed \$99,910.00; Authorizing The City Manager To Execute The Contract And Expend Funds On Behalf Of The City; And Providing For An Effective Date.

Matlock commented that there could be a better layout and asked to table the Resolution. Garrett explained what we are putting forward represents a few years of work. Shea explained this came about

after workshops with public comments of what the residents wanted. Landry commented that the issue was lack of boat ramps and suggested educating everybody of the private sector boat ramps, and this may be a great topic for a workshop. Smith asked for an inventory with fee schedules.

The Mayor called for Speakers, hearing none, closed public comments.

MOTION: Still moved approval

SECOND: Gonzalez

Vote of the Motion:

Yes: Still, Gonzalez, Landry, Smith

No: Matlock

Absent: None

Abstain: None

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

***E. Resolution 2023-07,** Approving The Professional Service Agreement Between The City And Cummins Cederberg Costal & Marine Engineering. For Marine Engineering Design Services Associated With The Re-Development of the Quay Property In An Amount Not To Exceed \$129,400.00; Authorizing The City Manager To Execute The Contract And Expend Funds On Behalf Of The City; And Providing For An Effective Date.

***F. Resolution 2023-08,** Approving A Standard Local Agency Program Agreement Between The City Of Marathon And The Florida Department Of Transportation To Receive Federal Funds For The Replacement Of the 117th Street Bridge; Authorizing The City Manager To Execute The Agreement And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date

***G. Resolution 2023-09,** Approving A Lease Agreement Between The City Of Marathon And The Florida Department Of Transportation For The Utilization Of Property Owned By FDOT within The Limits Of The Seven Mile Marina Property; Authorizing The City Manager To Execute The Agreement And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date

***H. Resolution 2023-10,** Approving A Change Order To The City's Contract With Brightview Landscape Services In the Amount of \$132,592.42 For The Renovation/Restoration Of The North And South Baseball/Softball Fields At Community Park As Required To Accommodate The Junior And Senior Divisions Of The Little League Program; Authorizing The City Manager To Execute The Agreement And Expend Appropriated and Budgeted Funds On Behalf Of The City; And Providing For An Effective Date

I. Resolution 2023-11, Approving A Lease Agreement Between The City Of Marathon, Florida And Pigeon Key Foundation For A Term Of Three Years With Rights Of Lease Extensions In Three-Year Increments; Providing For Term, Rent, Utility Considerations, Use Provisions And Restrictions; Providing For Lessor And Lessee Responsibilities; Providing For Indemnification And Insurance Requirements; And Providing For An Effective Date.

Garrett explained that the document the Council has as a laydown of the lease in front of them, with a slight modification. Garrett explained the modifications. Gonzalez commented he would like it to be a 30-year lease, they are a nonprofit and are putting in power. Smith questioned if exhibit C was exclusive use. Garrett explained the area is set aside for the train, not exclusive, parking is first come, first serve. Gonzalez commented the previous owner sold the property with the understanding that Pigeon Key would be a part of this. Landry commented he would like to see three-year reviews, but thirty years is a good term.

The Mayor called for Speakers.

MOTION: Gonzalez moved approval with conditions outlined.

SECOND: Still

Vote of the Motion:

Yes: Gonzalez, Still, Matlock, Smith, Landry

No: None

Absent: None

Abstain: None

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

J. Resolution 2023-12, Approving A Resolution And Settlement Agreement Between The Parties Identified As The City Of Marathon, Florida, The Florida Department Of Economic Opportunity, And Boat Works Investments LLC Concerning The Project Known As Boatworks; And Providing For An Effective Date

Williams explained the DEO attorney has not received the agreement back executed. Williams gave a few options, on January 24th we could amend the agenda to take action, as DEO has been more amicable lately. The DEO secretary resigned, and no one has been appointed or “acting” Secretary. Williams asked the Council to give Garrett authority to keep moving forward. The Council asked that staff keep moving forward.

Council Comments

Matlock informed everyone he would see them at the January 24th meeting.

Landry commented he was looking forward to the coming year and had the best experience being with the Wounded Warrior group. Landry reminded everyone of the Flag retirement ceremony on the 27th of January and asked for input at the January 24th Vacation Rental meeting.

Smith commented it was a pleasure to serve, this community is home. Smith thanked the Marathon Fire Rescue Department for the Santa Caravan; it was a great event and there was great attendance at the Celtic event. Smith thanked staff.

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Still thanked everyone for attending and thanked staff, MCSO, Marathon Fire Rescue and reminded everyone of the number of calls with the migrant landings. Still thanked the Marathon Fire Rescue for the Santa Caravan. Still commented it was wonderful to see the response of the Wounded Warrior Ride and was honored to be able to participate. Still reminded everyone of the Paws for a Cause event and informed everyone the local shelter would provide a dog to walk.

Gonzalez thanked staff and Marathon Fire Rescue for the Santa Caravan, the Wounded Warrior Ride was amazing. Gonzalez thanked all department and the Governor for reacting so heavily regarding the migrant landings.

ADJOURNMENT

With no further business to come before the Council, Mayor Gonzalez adjourned the meeting at 8:15 pm by unanimous consent.

I certify the above represents an accurate summary of the regular Council meeting of January 10, 2023

Diane Clavier, City Clerk

Date