



CITY COUNCIL AGENDA STATEMENT

Meeting Date: January 9, 2024

To: Honorable Mayor and City Council

From: George Garrett, City Manager

Agenda Item: **Resolution 2024-01**, Relating To The State Of Florida's 2023 Hurricane Evacuation Clearance Times Summary, The Building Permit Allocation System, And Necessary Actions Of The Legislature During The 2024 Legislative Session; Providing For Severability; And Providing For An Effective Date.

BACKGROUND

The Florida Legislature and the Administration Commission have included the City of Marathon and all other jurisdictions except the City of Key West within the designated Florida Keys Area of Critical State Concern (Section 380.05, 380.0552, Florida Statutes). The Florida Legislature and the Administration Commission have included the City of Key West within the designated Key West Area of Critical State Concern (Rule 28-36, F.A.C.). The Florida Legislature and the Administration Commission have mandated that the City of Marathon, Florida include within the goals, objectives, and policies of its Comprehensive Plan measures to protect public safety and welfare in the event of a hurricane, by maintaining an evacuation clearance time for permanent residents of no more than 24 hours (Section 380.0552 (9) (a) 2., Florida Statutes; Rule 28-18.400 (5) (a) 4. and 5., F.A.C.). The Florida Legislature further mandated that the hurricane evacuation clearance time for Monroe County and other local governments within the Florida Keys Areas of Critical State Concern (ACSC) and the Key West Area of Critical State Concern shall be determined by a state-approved hurricane evacuation study, conducted in accordance with a professionally accepted methodology (Rule 28-18.400 (5) (a), F.A.C. and Rule 28-36, F.A.C.).

Hurricane Evacuation Clearance Times are the basis for the Florida Keys Area of Critical State Concern's Building Permit Allocation System (Rate of Growth Ordinance), and updated data may determine whether additional residential units will be authorized by the State of Florida beyond the existing allocation. The Florida Department of Commerce has provided, based on its data, input variables, and assumptions as set forth in the Clearance Times Summary, attached as Exhibit A, which depend on several hurricane evacuation scenarios with future allocations ranging from zero (0) additional units to 7,954 additional units; and includes columns where evacuation was modeled both with and without of Key West residents; and with mobile home residents evacuated in both Phase 1 and in Phase 2.

In order to accurately depict evacuation clearance times for the population of the Keys ACSCs, City of Key West residents should be included in the model and mobile home residents in Monroe County should be evacuated in Phase 1 (early phase) of the evacuation with the tourists due to the less substantial construction and limited elevation of mobile homes, which the state treats as vehicles.

The City of Marathon, Florida acknowledges and accepts the work completed in 2023 in the hurricane evacuation model whose general results are presented in Exhibit A. The City of Marathon supports Monroe County’s deliberative approach in not yet accepting the recent 2023 US 1 Arterial Travel Time and Delay Study for travel times from Key West to Key Largo. The City of Marathon has clear “takings” liability as BPAS comes to an end with the BPAS Semester ending July 13, 2024.

The City holds applications for 81 market rate BPAS allocations and 40 affordable BPAS allocations. Among the 121 applications for BPAS allocations, 48 have reached a point at which they could potentially request Administrative Relief BPAS allocations of which there are only 12.

Recent estimates of remaining vacant parcels in Marathon, as provided in Exhibit B, indicate that there are approximately 1,026 vacant parcels within the City, 556 of which are estimated as buildable, 215 of which are waterfront properties.

The City is committed to working with the County and each the other municipalities to develop a positive future scenario for BPAS (ROGO). Such scenario would seek a minimum 20 to 30 year BPAS (ROGO) horizon and operate within any current and future Level Of Service (LOS) and environmental constraints. The City Council has indicated that we must work on this scenario and a potential Legislative modification this year and during this Legislative Session,

CONSISTENCY CHECKLIST:

Yes	No
<u> X </u>	<u> </u>
<u> </u>	<u> X </u>

1. Comprehensive Plan
2. Other – 2010 Sewer Mandate

FISCAL NOTE:

None

APPROVED BY FINANCE DIRECTOR:

NA

RECOMMENDATION:

Approval

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-09**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, RELATING TO THE STATE OF FLORIDA'S 2023 HURRICANE EVACUATION CLEARANCE TIMES SUMMARY, THE BUILDING PERMIT ALLOCATION SYSTEM, AND NECESSARY ACTIONS OF THE LEGISLATURE DURING THE 2024 LEGISLATIVE SESSION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature and the Administration Commission have included the City of Marathon and all other jurisdictions except the City of Key West within the designated Florida Keys Area of Critical State Concern (Section 380.05, 380.0552, Florida Statutes); and

WHEREAS, the Florida Legislature and the Administration Commission have included the City of Key West within the designated Key West Area of Critical State Concern (Rule 28-36, F.A.C.); and

WHEREAS, the Florida Legislature and the Administration Commission have mandated that the City of Marathon, Florida include within the goals, objectives, and policies of its Comprehensive Plan measures to protect public safety and welfare in the event of a hurricane, by maintaining an evacuation clearance time for permanent residents of no more than 24 hours (Section 380.0552 (9) (a) 2., Florida Statutes; Rule 28-18.400 (5) (a) 4. and 5., F.A.C.); and

WHEREAS, the Florida Legislature further mandated that the hurricane evacuation clearance time for Monroe County and other local governments within the Florida Keys Areas of Critical State Concern (ACSC) and the Key West Area of Critical State Concern shall be determined by a state-approved hurricane evacuation study, conducted in accordance with a professionally accepted methodology (Rule 28-18.400 (5) (a), F.A.C. and Rule 28-36, F.A.C.); and

WHEREAS, Hurricane Evacuation Clearance Times are the basis for the Florida Keys Area of Critical State Concern's Building Permit Allocation System (Rate of Growth Ordinance), and updated data may determine whether additional residential units will be authorized by the State of Florida beyond the existing allocation; and

WHEREAS, the Florida Department of Commerce has provided, based on its data, input variables, and assumptions as set forth in the Clearance Times Summary, attached as Exhibit A, which depend on several hurricane evacuation scenarios with future allocations ranging from zero (0) additional units to 7,954 additional units; and includes columns where evacuation was modeled both with and without of Key West residents; and with mobile home residents evacuated in both Phase 1 and in Phase 2; and

WHEREAS, in order to accurately depict evacuation clearance times for the population of the Keys ACSCs, City of Key West residents should be included in the model and mobile home residents in Monroe County should be evacuated in Phase 1 (early phase) of the evacuation with the tourists due to the less substantial construction and limited elevation of mobile homes, which the state treats as vehicles; and

WHEREAS, the City of Marathon, Florida acknowledges and accepts the work completed in 2023 in the hurricane evacuation model whose general results are presented in Exhibit A; and

WHEREAS, the City of Marathon supports Monroe County’s deliberative approach in not yet accepting the recent 2023 US 1 Arterial Travel Time and Delay Study for travel times from Key West to Key Largo; and

WHEREAS, the City of Marathon has clear “takings” liability as BPAS comes to an end with the BPAS Semester ending July 13, 2024; and

WHEREAS, the City has significant concerns related to “takings” liability in light of recent decisions rendered by the 3rd District Court of Appeals for the State of Florida; and

WHEREAS, the City holds applications for 81 market rate BPAS allocations and 40 affordable BPAS allocations; and

WHEREAS, among the 121 applications for BPAS allocations, 48 have reached a point at which they could potentially request Administrative Relief BPAS allocations of which there are only 12; and

WHEREAS, recent estimates of remaining vacant parcels in Marathon, as provided in Exhibit B, indicate that there are approximately 1,026 vacant parcels within the City, 556 of which are estimated as buildable, 215 of which are waterfront properties; and

WHEREAS, the City is committed to working with the County and each the other municipalities to develop a positive future scenario for BPAS (ROGO); and

WHEREAS, such scenario should seek a minimum 20 to 30 year BPAS (ROGO) horizon and operate within any current and future Level Of Service (LOS) and environmental constraints; and

WHEREAS, the City Council has indicated that we must work on this scenario and a potential Legislative modification this year and during this Legislative Session,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

Section 1. The City Council of the City of Marathon, Florida urges the Florida Legislature to support legislation necessary to include mobile homes in phase 1 of evacuation and the inclusion of City of Key West residents not living in mobile homes in phase 2 when modeling hurricane evacuation times for the Florida Keys Area of Critical State Concern to meet the City Council’s intent and consistent with its objectives.

Section 2. The Council urges the Legislature to collectively and collaboratively work with Monroe County and other municipalities this year and during this Legislative Session to develop a Legislative solution to the continuation of BPAS (ROGO) and the cessation of the “takings” dilemma.

Section 3. Directs the City Clerk to transmit a certified copy of this resolution to other Monroe County local government jurisdictions, the Governor, Senate President, House Speaker, and members of the Monroe County State Legislative Delegation.

Section 4. This resolution shall be effective upon adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 9TH DAY OF JANUARY, 2024.

THE CITY OF MARATHON, FLORIDA

Robyn Still, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

(City Seal)

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:

Steve Williams, City Attorney

EXHIBIT "A"

EXHIBIT "B"

Clearance Times Summary

Deliverable 5: Baseline Modeling		Phases	Florida Keys Including Key West		Florida Keys Excluding Key West	
			Mobile Homes in Phase 2 (hours)	Mobile Homes in Phase 1 (hours)	Mobile Homes in Phase 2 (hours)	Mobile Homes in Phase 1 (hours)
Baseline Modeling	Shows baseline - does not include additional prospective allocations	Phase 2	26.0	24.0	15.5	15.5
		Phase 1	15.5	15.5	15.0	15.0
Deliverable 6: Prospective Modeling for Future Allocations						
S1	3,550 Allocations	Phase 2	27.5	25.5	15.5	15.5
		Phase 1	15.5	15.5	15.0	15.0
S2	3,550 Allocations	Phase 2	28.0	26.0	15.5	15.5
		Phase 1	15.5	15.5	15.0	15.0
S3	3,550 Allocations	Phase 2	28.0	26.0	15.5	15.5
		Phase 1	15.5	15.5	15.0	15.0
S4	Minimal Allocations (11 allocations/yr)	Phase 2 (10 Years Growth)	26.5	24.0	15.5	15.5
		Phase 2B (20 Years Growth)	26.5	24.0	15.5	15.5
		Phase 1	15.5	15.5	15.0	15.0
S5	One Unit/Vacant Lot	Phase 2	31.0	28.5	17.0	16.5
		Phase 1	15.5	15.5	15.0	15.0

VACANT PARCELS

PC vacant residential (0000) and PC non ag 5 acres or more (9900). Total parcels = 1026. Removed Keyweb >= 5, Habitat = saltmarsh, mangroves, submerged, seagrass, mud bottom. Remaining area used to calculate buildable area. Remaining parcels = 556. Vacant parcels with no buildable area = 45.81% of all vacant (470 parcels).

Zoning	Parcels total	Buildable Market rate	Buildable Affordable
MU & MU-M	59	57	58
PR	1	0	0
RL-C	41	0	0
R-MH	50	16	22
RH	27	18	25
RL	25	0	0
RM	291	102	215
RM-I	8	5	5
I-G & I-M	2	0	1
C-NA	52	4	4
Total	556	203	329
	Percent of all potentially buildable vacant land	36.51%	59.17%

WATERFRONT PARCELS (38.67% of All potentially Buildable Vacant Parcels)

Zoning	Parcels total	Buildable Market rate	Buildable Affordable
MU & MU-M	24	21	21
PR	0	0	0
RL-C	0	0	0
R-MH	16	4	7
RH	10	7	9
RL	15	0	0
RM	140	64	93
RM-I	3	3	3
I-G & I-M	0	0	0
C-NA	7	0	0
Total	215	99	133
	Percent of all potentially buildable vacant land	17.81%	23.92%