

CALL TO ORDER - A Meeting of the City Council of Marathon, Florida was held on December 12, 2023 in the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida, Vice-Mayor Landry called the meeting to order at 5:30 pm.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited. Vice-Mayor Landry recognized County Commissioner and former City of Marathon Councilmember, Michelle Lincoln.

ROLL CALL - There were present:

Councilmember Gonzalez

Councilmember Matlock

Councilmember Smith

Vice-Mayor Landry

Mayor Still, Via Zoom-comprising a quorum

Also, in attendance were:

City Manager, George Garrett

Deputy City Clerk, Hillary Palmer

City Attorney, Steve Williams

Planning Director, Brian Shea

Finance Director, Jennifer Johnson

Public Works Director/City Engineer, Carlos Solis

Building Official, Gerard Roussin

Grants Coordinator, Maria Covelli

Parks Director, Paul Davis

Utilities Director, Dan Saus

Deputy Utilities Director, Libby Frazier

Engineer, Chris Nolan

Paralegal, Alli Heller

MOTION: Gonzalez moved to allow Mayor Still to participate in the meeting via Zoom

SECOND: Smith

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

Approval Of Agenda And Consent Agenda

Matlock added 20th Street and 92nd Street Update as City Council Item 5B & 5C.

Palmer announced a member of the public asked for items 6G (Building Department Report), 6I (Wastewater Utilities Report) and 10D (Resolution 2023-121) to be pulled off of the consent agenda.

Matlock pulled item 10E (Resolution 2023-122) from the consent agenda.

Garrett announced staff does not have a Wastewater Utilities Report (Item 6I) to present and there was a Resolution that staff was potentially going to add but decided to bring it forward at the January meeting instead. He also announced that due to the statutory changes invoked last year Ordinance 2023-23 (Item 9A) must have a financial impact statement, which will be provided at the second hearing; however the first hearing will be heard tonight.

Smith pulled item 6C (Public Works Report) off the consent agenda.

MOTION: Smith moved to approve the agenda as amended.

SECOND: Gonzalez

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

Landry welcomed former Councilmember John Bartus to the meeting.

20th Street Update and Discussion-Garrett updated Council that the bollards have not been moved to date, but staff is currently working on the move. Garrett added that upgraded and new lighting have been added to the area where the current barricades are located. He also reported discussions have begun with Marathon Garbage Service to replace the current dumpster with a larger one at the site. Matlock asked for an update on the land ownership and Garrett reported that there is no update at this time but an information request has been submitted to the state. Landry requested an update on security cameras for the area. Garrett reported two bullet proof cameras are scheduled to be installed at the site.

92nd Street Update and Discussion-Garrett reported there is currently a grant application in the process to assist with funding for the project. He also reported the engineered plans have not been submitted to state yet, but they are in the process to be submitted. Covelli reported two grant

applications have been submitted for 92nd Street and both are currently under review. One application is for the Hazard Mitigation Grant Program under Hurricane Ian and the other application is for the Resilient Florida Grant Program. Covelli stated she is following up every week and sending updated pictures of the flooding areas.

Gonzalez asked if there is anything the City can do on a temporary basis until the grants are approved to assist with the flooding on the street and the impact to the residents.

Garrett replied legal staff is currently working on easement agreements with the properties as both sides of the street are privately owned.

Matlock asked if there has been follow-up regarding obtaining signatures on the easements and Garrett replied he is working directly with a resident on the street that is assisting with acquiring signatures.

Approval of Settlement Agreement Friends of the Lower Keys LLC

Garrett reported on the shade session that took place last month in November with Council and spoke on the selections that Council made in the session referenced as alternative 1A & 1D which was to put a deep well at either service area six or crawl key and stated service area six was selected as the primary option. Garrett reported he is in discussions with the Aqueduct Authority, however there are no developments to report at this time. He also stated that everything agreed upon in the shade session is outlined in the five-year term settlement agreement. Garrett recommended approval of the settlement agreement.

The Mayor called for public comments.

Lynda Berrigan - expressed concern and objection regarding the future location of the deep well at the service area six location on Coco Plum. She stated her main objection was to the industrial impact in a residential community and suggested locating the deep well on Crawl Key.

Joyce Newman – Spoke on behalf of Keys Last Stand and stated protecting water quality is one of their main priorities and commended Council for changing the use of shallow injection wells and instead constructing a deep well for safe sewage disposal. She stated Keys Last Stand urges the Council to move forward with plans and implementation of a deep well.

Will Benson – Thanked Council for reaching a reasonable settlement concerning the deep well. He expressed appreciation for the leadership Council has shown for the value of the quality of the Florida Keys waters. He offered assistance with securing grant funding on behalf of the Bonefish and Tarpon Trust organization in regard to the pursuit of the new deep well.

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MOTION: Smith moved to approve the Friends of the Lower Keys settlement agreement.
SECOND: Gonzalez

Vote of the Motion:

Yes: Smith, Gonzalez, Matlock, Landry, Still
No: None
Absent: None
Abstain: None

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

Public Works Report- Smith asked for an update on the City Hall air conditioning system. Solis explained the design system for the air conditioning has been modified to have two smaller units on the same operating system which will replace the three larger units in the building. He confirmed the units are currently on order with an expected to be delivered within 2-3 weeks and building permit has been issued. Additionally, Smith asked for an update on Sombrero Boulevard drainage issue. Solis stated there is resolution that will be heard tonight be approve the contract with Weiler Engineering for the stormwater drainage system on Sombrero Boulevard. Solis provided a brief update on the road conditions.

Building Department Report – Roussin stood ready to take any questions. Garrett reported that a new Building Inspector will be joining the Building Department team in February next year, which will begin to shift the Building Department into inhouse inspectors.

Mayor called for public comment.

Patricia McGrath – Asked what type of permits were issued under the “permit submittals” section of the Building Department report.

Roussin explained the permit submittals include all types of permits that have been submitted. McGrath expressed her discontent with the content of permit submittal portion of the report and asked Smith for further clarification. Smith explained the report in more detail to Ms. McGrath

Garrett stated that staff would be happy to meet with Ms. McGrath at a later time and date to go over more details of the report.

Legal Department Report – Williams provided a report on the property located at 520 12th Street and explained there was unpermitted work preformed years ago and the property has since been through the Code Hearing process and as a result there are daily accumulating fines which were reported over \$100,000 on the property. He reported there has been no contact from the owner and explained there is no other legal action to take other than foreclosure. Williams requested Councils permission to authorize litigation.

MOTION: Gonzalez moved to authorize litigation on 520 12th Street due to the length the property has been in the Code Department.

SECOND: Smith

Vote of the Motion:

Yes: Gonzalez, Smith, Matlock, Landry, Still

No: None

Absent: None

Abstain: None

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

Garrett added the Monroe County Contractors Report as item 6L to the agenda and stated Armand Messina was present to speak on behalf of the association.

Discussion of Hurricane Evacuation and BPAS

Garrett explained the state has been in the process of developing a hurricane evacuation model and reported there is a possibility of receiving new units per the Department of Economic Opportunity's outline. Garrett spoke on potential takings cases due to the City's position of being almost out of permits. Garrett stated discussions need to happen to determine how the City will acquire the units.

Williams explained the City has more vacant lots than building permits to issue. He explained DEO is going to release somewhere between 0-7,900 units. Williams expressed his concern to protect the City financially in the future and encouraged Council to ask for as many units as they can get to protect the City from takings cases. Williams stated he reviewed the Monroe County resolution that will address the units at the Commission Meeting on December 13th.

Gonzalez thanked Williams for the update and recommended the City have representation at the Monroe County Commission meeting on 12/13/23. He encouraged Williams and Garrett to attend the meeting to speak on Council's behalf regarding the City's concerns in regards to the units.

Garrett advised that legislative changes this year are forthcoming and staff and council should be prepared. He stated staff will keep Council updated on a weekly basis as the City moves forward. Garrett confirmed he and Williams will be present to speak at the Monroe County Commission meeting on 12/13/23.

Smith stated he feels Council should stay closely tuned into the process as it moves forward and supported City representation at the Monroe County Commission meeting.

Williams explained that if the political opinions differ than that of the County the City will handle delicately and with respect.

Landry supported Williams and Garrett attendance at the Monroe County Commission Meeting.

Monroe County Contractor Association Update – Armand Messina, President of Monroe County Contractor Association provided an update stating that he and the City Manager have been meeting once a week to discuss and resolve issues. He stated that the meetings have helped tremendously to resolve issues and the time spent with the Manager has been invaluable. He stated a lot of progress has been made and issues are getting worked out. He reported no complaints have been received recently from the local contractors with regards to the Building Department. He explained there is still an issue regarding the reception door at City Hall being locked that he is currently working to get resolved. Garrett assured him that by early next year the issue will be resolved as the City is dealing with a staffing shortage currently.

Messina stated he has also been working and meeting with Roussin regularly and expressed he has been very cooperative.

Quasi-Judicial Public Hearings

Resolution 2023-117, Consideration Of A Request For A Conditional Use Permit For Scott Ebert Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled “Conditional Use Permits” For Unification Of Two Residential Units Into A Single Family Residential Until With 11 Bedrooms And 11 Bathrooms; Located At 574 Sombrero Beach Road; Which Is Legally Described As Block 2 (Bottom Floor) Southerly And Northernly (Top Floor) Part Of Lot 17, Sombrero Beach Village Boot Key PB5-86, Monroe County, Florida; Having Real Estate Number 00355110-000000 And 00355110-000100, Nearest Mile Marker 50.

Shea provided a staff report which explained the conditional use application for Scott Ebert regarding converting a duplex into a single family residence. The report included a location map, surrounding and current zoning information, existing conditions, proposed use and compliance including parking requirements which are limited to six vehicles and one boat trailer. Shea stated staff and the Planning Commission recommended approval.

Matlock expressed his opposition to the parking requirements and conditional use and felt approval would set a precedent for future developments.

Smith asked why the parking code is not applied to the conditional use and expressed concerns regarding the parking criteria. Shea explained the code allows for adjustments.

Gonzalez expressed concern that there was not a penalty clause listed in the Conditional use and ask what the procedure would be if the parking restrictions are violated. Shea explained the property owner would be given a code citation and would have to go through the code enforcement procedures.

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Chad Neller, Applicant, spoke in favor of the project. He stated there is ample room on the property for parking and stated he requested 6 vehicles/1 boat trailer restriction. He reconfirmed the fact of the code enforcement procedure if the parking restrictions are violated.

Smith stated his concerns regarding the parking spaces at the property.

Neller stated the traffic study that was required for the conditional use application is back-up confirmation that six parking spaces will be adequate.

Shea verified the City Code allows for two parking spaces in a single-family home.

Matlock stated he has an issue with the outlined parking spaces and felt there should be more spaces required.

Council discussion.

Williams advised Council that as a Council they are allowed to impose conditions as long as the property owner agrees to it.

Landry asked if the traffic study took into consideration the fact that the property is already a vacation rental and the amount of traffic that flows into a vacation rental verses a single family home. Shea stated that in accordance with the City Code a vacation rental is a single family home and there is no traffic difference as far as the code is concerned. Shea also verified that if the house was destroyed in a hurricane, etc. they can only rebuild one unit up to six bedrooms, unless they go through a conditional use.

Landry expressed opposition with regards to the lot size ratio to the number of bedrooms/bathrooms of the property.

Council reported no ex-parte communication.

Vice Mayor called for public speakers.

Palmer swore in speaker.

Patrica McGrath questioned the number of daily traffic trips reported and asked if there is a cap on the number of bedrooms allowed.

Shea referred to the traffic study report that was conducted and stated he would speak to Ms. McGrath regarding the code requirements separately.

Matlock expressed concerns regarding setting a precedent by approving the conditional use.

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Williams explained that each parcel is dealt with uniquely per application and per house. He further explained what happens to one house could be entirely different than that of another and confirmed that Council is not bound by their decision on this parcel to another parcel.

Clerk swore in speaker.

Emma Shumann stated she was having a difficulty understanding the Councilmembers and stated they could do a better job at communicating to the general public. She asked for clarification on the discussion and Landry informed her that public comment is not a question-and-answer session. The speaker asked why there were no women on the council and Landry replied the Mayor is a woman and is out of town but present via Zoom.

Smith continued to express his opposition regarding the parking requirements.

Council Discussion.

MOTION: Matlock moved to deny Resolution 2023-117 based on the parking.

SECOND: Smith

Vote of the Motion:

Yes: Gonzalez, Still
No: Matlock, Smith, Landry
Absent: None
Abstain: None

Vote on the Motion: 2 Yes, 3 No, 0 Absent, 0 Abstain

Garrett clarified that the Council voted incorrectly. The motion was to deny conditional use but the councilmember making the motion to deny voted no. He asked Council to make a revised motion.

Williams verified a negative motion was made that three councilmembers voted in favor of and therefore the vote passed and advised Council to reconsider and rephrase the motion to conform to the vote or vote again.

MOTION: Smith moved to reconsider the original motion to deny Resolution 2023-117 based on the parking requirements.

SECOND: Matlock

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

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MOTION: Smith moved to deny Resolution 2023-117, based upon the parking requirements
SECOND: Matlock

Council Discussion.

Gonzalez confirmed the motion was to deny the application based on the maximum amount of vehicles, which is six cars and one boat trailer versus however many vehicles/trailers that fit on the property.

Williams stated the vote is simply to deny the conditional use.

Vote of the Motion:

Yes: Smith, Matlock, Landry
No: Gonzalez, Still
Absent: None
Abstain: None

Vote on the Motion: 3 Yes, 2 No, 0 Absent, 0 Abstain

Public Comment

Diane Scott asked Council to find out why the City Attorney has directed staff not to return her calls. She spoke on the Sheriff's office contract with regards to complaints and requested the City Manager request copies of her complaints.

Ordinance 2023-23, Amending Chapter 18, Article III)"Offenses involving Public Peace, Order, and Morals") Of the Code Of Ordinances Of The City Of Marathon By Amending Section 18-124 To Create A Subsection D(a) Which Will Provide An Enforcement Mechanism For Section 18-124; 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 provided a staff report explaining that he and the City Manager met with the Sheriff's Department and discussed the City's current ordinance that does not allow a sheriff deputy to trespass or remove a disgruntled individual from the City parks upon the first interaction with the person. He further explained that this ordinance before Council would allow at the officers discretion the ability to remove someone from the park if they are behaving inappropriately or whatever the officer deems inappropriate. The ordinance would allow the officer to do so on the first call without the necessity of a warning.

MOTION: Gonzalez moved to approve Ordinance 2023-23.
SECOND: Smith

Vote of the Motion:

Yes: Gonzalez, Smith, Matlock, Landry, Still
No: None
Absent: None
Abstain: None

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

Resolution 2023-121, Approving Grant Agreement No. A2451 Between The City And The State of Florida Department of Environmental Protection For Resurfacing, Restriping, New Fencing, and Pickleball Courts at Community Park Basketball Courts Appropriating Funds; And Providing For An Effective Date.

Garrett stated the grant is specific to resurfacing the basketball courts and striping will follow for the possibility of using it for pickleball.

Public Comment

Patricia McGrath asked how a grant for the City parks falls into Environmental Protection and asked the City to declare a state of emergency until work is caught up.

Garrett explained that the Florida Department of Environment Protection provides grants for a variety of projects, including recreational grants.

MOTION: Gonzalez moved to approve Resolution 2023-121.

SECOND: Smith

Smith asked for verification that pickleball will not be happening on the tennis courts.

George verified there will not be pickleball on the tennis courts, but clarified the grant includes striping on the basketball court for pickleball.

Vote of the Motion:

Yes: Gonzalez, Smith, Matlock, Landry, Still
No: None
Absent: None
Abstain: None

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

Resolution 2023-122, Awarding a work authorization for modification the Sombrero Blvd storm water drainage system to Weiler Engineering In An Amount Not To Exceed \$103,150.00; Authorizing The City Manager To Enter Into Agreements In Connection Therewith, Appropriating And Expending Budgeted Funds; And Providing For An Effective Date

Matlock asked for verification that the direction to the engineers will be injections wells.

Garrett verified that there will be an active injection well opposed to a passive one.

Matlock stated he feels that the road should be raised and felt the locals agree and asked Council if they agreed. He also stated he feels the injection well is a temporary fix.

Garrett spoke for the injection wells and stated it is the best recommendation that staff could provide and verified it is not a temporary fix.

Gonzalez spoke in favor of the injection wells versus raising the road.

Landry asked Johnson if raising the road and the injection well were budgeted. Johnson verified both projects have been budgeted.

Council discussion.

MOTION: Gonzalez moved to approve Resolution 2023-122.

SECOND: Still

Vote of the Motion:

Yes: Gonzalez, Matlock, Smith, Landry, Still

No: None

Absent: None

Abstain: None

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

Council Comments

Matlock announced the Marathon Fire Rescue Santa Caravan will be making its rounds on Christmas eve and the Schedule is online. He also announced many local churches will be offering Christmas services.

Smith wished the public and staff happy holidays and warned local traffic is increasing.

Gonzalez thanked staff for their hard work and wished everyone happy holidays.

Landry thanked staff and encouraged the public to reach out to the City Councilmembers. He also announced the Santa Caravan schedule is online.

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Still wished everyone a happy and safe holiday season and reminded everyone to be kind to one another.

ADJOURNMENT

With no further business to come before the Council, Vice-Mayor Landry adjourned the meeting at 7:09 pm by unanimous consent.

I certify the above represents an accurate summary of the City Council meeting of December 12, 2023

Hillary Palmer, Deputy City Clerk

Date