

RESOLUTION 00-04-15

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, SETTING FORTH THE POLICY OF THE CITY COUNCIL WITH REGARD TO THE SUPPORT AND LEGAL DEFENSE OF THE CITY COUNCIL AND THE CHARTER OFFICERS, AGENTS AND EMPLOYEES OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council and the charter officers, agents, and employees of the City of Marathon (“City”) are constantly presented with the necessity for making decisions regarding various phases of City policy and management; and

**WHEREAS**, it is essential to the effective operation of the City that such decisions be made in an environment where the threat of personal liability for the City Council and its charter officers, agents, and employees is minimized; and

**WHEREAS**, the City Council wishes to formalize a Policy with regard to the support, defense and legal protection of the City Council and its charter officers, agents, and employees so as to reduce the threat of personal liability to such individuals.

**NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF MARATHON, MONROE COUNTY, FLORIDA;**

Section 1.     Recitals.     The above recitals are true and correct and are incorporated herein by this reference.

Section 2.     The City Council acknowledges that pursuant to Florida Law, Council members and charter officers, agents, or employees of the City should not be held individually liable for any claims for damages or injuries suffered as a result of actions allegedly caused by the negligence or wrongful act or omission of action of the Council members and charter officers, agents, or employees acting within the scope of their office, employment, agency, or function,

provided they have not acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Section 3. The City shall provide legal representation to defend any civil action arising from a complaint for damages or injuries suffered as a result of any act or omission of action of any of the Council members, charter officers, agents and employees of the City, present or former, arising out of and in the scope of his or her employment or function, unless, in the case of a tort action, the Council, charter officers, agents and employees of the City acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The City does not waive any sovereign immunity from liability as granted under Florida Law, including the City's stating that to the extent the State does not through its laws protect the members of the Council and the charter officers, agents and employees from liability, it is committed to doing so to the extent described in this Policy.

Section 4. The City may insure itself in order to cover all reasonable costs and fees directly arising out of or in connection with any legal claim or suit which directly results from a decision or act made by a Council member and the charter officers, agents and employees of the City while performing the duties and functions of his or her position.

Section 5. This Policy is intended to evidence the City's support of Council members, charter officers, agents and employees who perform acts and render decisions in the good faith performance of their duties and functions. The City will neither support nor defend an individual whose act or decision is the result of fraud, malfeasance or knowing criminal misconduct. The City will neither support nor defend those actions or omissions committed by an individual outside the scope of his/her office or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. In the event that the City has expended funds to provide an Attorney to defend a

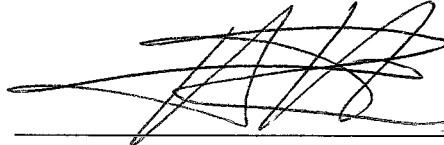
Council member, charter officer, agent or employee who is found to be personally liable by virtue of actions outside the scope of his or her employment or function, or was acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, the individual shall be required to reimburse the City for funds so expended. The City may recover such funds in a civil action against such individual.

Section 6. The City may expend available funds to pay any final judgment, including damages, costs, and Attorney's fees, arising from complaint for damages or injuries suffered as a result of any action or omission of action of any Council member, charter officer, agent or employee in a civil or civil rights actions described in Section 111.07, Florida Statutes. If the civil action arises under Section 768.28, Florida Statutes, as a tort claim, the limitations and provisions of that section governing payment shall apply. If the action is a civil rights action arising under 42 U.S.C. § 1983, or similar federal statutes, including by example and not by limitation those statutes listed in 42 U.S.C. § 1988(b) (1994), payment for the full amount of judgment may be made unless the individual has been determined in the final judgment to have caused the harm intentionally. The City may pay any compromise or settlement of any claim or litigation described in this paragraph, provided, however, that the City Council determines such compromise or settlement to be in the City's best interest.

Section 7. This Policy shall not apply to actions initiated by the City against an individual Council member, charter officer, agent, or employee.

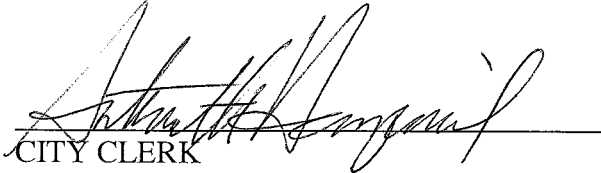
Section 8. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 25 day of April, 2000.

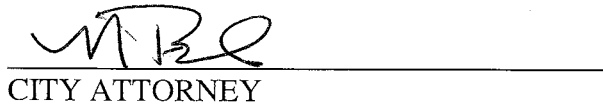


ROBERT MILLER, MAYOR

ATTEST:

  
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY

  
CITY ATTORNEY