

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2006-124**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, GRANTING THE ADMINISTRATIVE APPEAL FILED BY AMERICAN LEGION, MARATHON POST NUMBER 154, INC., REGARDING THE DECISION OF THE CITY OF MARATHON PLANNING DEPARTMENT DENYING A SIGN PERMIT ON PROPERTY OWNED BY MARATHON POST 154, INC., AND LOCATED ON OVERSEAS HIGHWAY NEAREST MILE MARKER 49, KEY VACA, AND HAVING THE RE # 00103060.**

WHEREAS, on July 17, 2006, the City of Marathon (the "City") Planning Commission (the "Commission") and on the August 8, 2006, the City Council (the "Council") conducted properly advertised public hearings (the "Public Hearings") regarding the Administrative Appeal request submitted by American Legion, Marathon Post Number 154 (the "Applicant"), on a decision of the City of Marathon Planning Department denying a sign permit for property owned by the Applicant pursuant to Section 19-218 of the City Code (the "Code"); and

WHEREAS, the purpose of the appeal was to seek the Council's review of the City Planning Department's decision to deny a permit for the replacement of a billboard damaged by Hurricane Wilma at the property described as located on Overseas Highway nearest mile marker 49, Marathon; and

WHEREAS, the Commission recommended that the appeal be granted and the decision of the City's Planning Department be overturned; and

WHEREAS, the Council, after considering the recommendation of the Planning Commission and the testimony and evidence presented by all parties (including the Applicant), does hereby find and determine as provided below.

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

**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** The following Finding of Facts is made:

(1) The Planning Department presented to the Commission and Council its written recommendation regarding the Applicant's request for permit to replace a billboard damaged by Hurricane Wilma.

(2) The Applicant presented competent substantial evidence that City staff erred as a matter of law or fact and that the Applicant in fact met all of the criteria in Section 19-218, thus entitling it to a sign permit to replace the billboard damaged by Hurricane Wilma.

**Section 3.** The following Conclusions of Law are made:

- (1) City staff processed the Appeal in accordance with the City Code.
- (2) The Appellant demonstrated through competent substantial evidence that the Appeal should be granted.
- (3) That in rendering its decision as reflected in this Resolution, the Council has:
  - (a) Accorded procedural due process;
  - (b) Observed the essential requirements of the law; and
  - (c) Supported its decision by substantial competent evidence of record.
- (4) The Appeal is GRANTED and the Council reverses the decision of the Planning Department, to grant a sign permit to the Applicant.

**Section 4.** This Resolution shall not take effect for thirty (30) days following the date it is filed with the City Clerk, and during that time, the administrative appeal granted herein shall be subject to appeal as provided in the City Code. An appeal shall stay the effectiveness of this Resolution until said appeal is resolved.

**PASSED AND APPROVED** by the City Council of the City of Marathon, Florida, this 22<sup>th</sup> day of August, 2006.

**THE CITY OF MARATHON, FLORIDA**

  
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Christopher M. Bull, Mayor

AYES: Mearns, Pinkus, Tempest, Worthington, Bull  
NOES: None  
ABSENT: None  
ABSTAIN: None

**ATTEST:**

*Diane Clavier*

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Diane Clavier  
City Clerk

(City Seal)

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

*[Signature]*  
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City Attorney