

# **City of Marco Island Florida**

*51 Bald Eagle Drive  
Marco Island, Florida  
cityofmarcoisland.com*



## **Meeting Minutes - Final**

**Monday, November 10, 2014**

**5:00 PM**

**Community Meeting Room**

### **City Council**

***Chairman: Larry Sacher***

***City Council: Joe Batte, Bob Brown, Ken Honecker, Larry Honig, Amadeo R. Petricca,  
and Victor Rios***

***City Manager: Roger Hernstadt***

***City Clerk: Laura Litzan - City Attorney: Burt Saunders***

**Swearing in of Councilors-Elect**

*Newly elected City Council members, Councilor Joe Batte, Councilor Bob Brown, and Councilor Victor Rios, were sworn in by the Honorable Ramiro Manalich, Collier County Circuit Court Judge.*

**Election of Chair and Vice-Chair**

*(Editorial History: The City Charter provides "the Council shall elect a Chairman and Vice-Chairman to serve for a term of one year at the first meeting following the Council election, and the annual anniversary thereafter.")*

**Election of Chair and Vice-Chair**

**MOTION by Councilor Batte nominating Vice-Chair Sacher as Council Chairman.  
MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 7 - Councilor Batte, Vice-Chair Brown, Councilor Honecker, Councilor Honig, Councilor Petricca, Chairman Sacher and Councilor Rios

**MOTION by Councilor Rios nominating Councilor Petricca as Council Vice-Chairman. MOTION FAILED BY THE FOLLOWING VOTE:**

**Yes:** 3 - Councilor Honecker, Councilor Petricca and Councilor Rios

**No:** 4 - Councilor Batte, Vice-Chair Brown, Councilor Honig and Chairman Sacher

**MOTION by Councilor Batte nominating Councilor Brown as Council Vice-Chairman. MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 5 - Councilor Batte, Vice-Chair Brown, Councilor Honecker, Councilor Honig and Chairman Sacher

**No:** 2 - Councilor Petricca and Councilor Rios

**1. Call to Order****2. Roll Call**

**Present:** 7 - Councilor Batte, Vice-Chair Brown, Councilor Honecker, Councilor Honig, Councilor Petricca, Chairman Sacher and Councilor Rios

**Absent:** 0

**Also Present**

*Roger T. Hernstadt, City Manager  
Laura Litzan, City Clerk  
Derek Rooney, Acting City Attorney  
Guillermo Polanco, Director of Finance  
Mike Murphy, Fire Chief  
Al Schettino, Acting Police Chief  
Tim Pinter, Director of Public Works  
Jeff Poteet, General Manager, Water & Sewer  
Tami Scott, Zoning Administrator, Growth Management  
Gretchen Baldus, Director of Information Technology  
Sandra Schildhorn, Administrative Assistant*

**3. Invocation by Pastor Kevin Koenig of Marco Island Lutheran Church****4. Pledge of Allegiance led by Councilor Batte**

*Following the pledge of allegiance, Councilor Petricca presented Dr. Fay Biles, President of the Marco Island Tax Payer's Association with a bouquet of roses in recognition of her contributions to the City of Marco Island.*

*Chairman Sacher proposed renaming the Community Meeting Room in honor of Dr. Biles and her late husband, Bedford Biles. Council unanimously agreed to schedule this for discussion at the December 1, 2014 City Council meeting.*

**5. Approval of Agenda and Consent Agenda**

[Approval of Consent Agenda passes all routine items indicated by asterisk (\*). Consent Agenda items are not considered separately unless a council member so requests. In the event of such a request, the item is returned to the Regular Agenda.]

**MOTION by Vice-Chair Brown, seconded by Councilor Batte, approving the Agenda and the Consent Agenda, amended to reschedule Item 6(e)-2, "Discussion - Recognition of Dr. Fay Biles / MITA" on the December 1, 2014 agenda. MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 7 - Councilor Batte, Vice-Chair Brown, Councilor Honecker, Councilor Honig, Councilor Petricca, Chairman Sacher and Councilor Rios

**6. City Council Items****a. (\*)Approval of Minutes**

- (a)-1** Utility Rate Design Workshop Minutes of October 20, 2014
- (a)-2** Special-Called "Closed" Meeting Minutes of October 20, 2014
- (a)-3** City Council Regular Meeting Minutes of October 20, 2014
- b. (\*) 2015 City Council Meeting Schedule**

Approval of the 2015 City Council Meeting Schedule

**c. (\*)Committee Appointments**

- (c)-1** Appointment to Audit Advisory Committee

*Mr. James B. Karter was selected by Vice-Chair Brown to fill the vacated seat on the Audit Advisory Committee.*

- (c)-2** Appointment to the Collier Metropolitan Planning Organization (MPO)

*Council approved the appointment of Councilor Batte to serve on the MPO.*

*d. Discussion Items*

Proposed Future Agenda Items

*Councilor Batte requested scheduling City Council salaries as a future agenda item. Acting City Attorney Derek Rooney reported that a change in salary for Council requires an amendment to the City Charter by referendum. Council directed staff to investigate compensation policies for governing bodies of other municipalities in Florida.*

*Councilor Petricca requested, and Council concurred, to schedule a discussion regarding the seawall at the Esplanade on December 1, 2014.*

*Councilor Honig made the following motion:*

**MOTION by Councilor Honig to remove discussion of the Utility Service Availability Assessment Resolution from the January 20, 2015 City Council agenda. MOTION FAILED BY THE FOLLOWING VOTE:**

**Yes:** 3 - Councilor Batte, Vice-Chair Brown and Councilor Honig

**No:** 4 - Councilor Honecker, Councilor Petricca, Chairman Sacher and Councilor Rios

*e. Council Communications*

**(e)-1** Discussion - Seawall Staging - Councilor Petricca.

*Councilor Petricca asked for, and received a (5-2) consensus of Council, to bring back the Seawall ordinance for discussion on a future agenda.*

**(e)-2** Discussion - Recognition of Dr. Fay Biles / MITA - Councilor Petricca - (Recheduled for discussion on December 1, 2014)

*Council Communications (continued):*

*Councilor Petricca commented about the City Manager's recommendation regarding the donation of personal time by staff to charitable organizations.*

*Following discussion regarding the donation of personal time by staff, Chairman Sacher pointed out that the matter is within the purview of the City Manager under the dictates of the City Charter.*

*Chairman Sacher asked for a consensus to change the time of City Council meetings to 4:00 p.m., but no formal action was taken.*

*Vice-Chair Brown suggested that Council consider participation in the celebration of the 50th Anniversary of Modern Marco.*

*The meeting went into recess at 7:33 p.m. It is noted for the record that the same Councilors were present when the meeting reconvened at 7:50 p.m.*

## 7. City Manager's Report

### a. City Manager's Report

#### (a)-1 Departmental Reports

*Fire-Rescue Monthly Report – Fire Chief Mike Murphy*  
*Public Works Monthly Report – Director Tim Pinter*  
*Police Monthly Report – Acting Chief of Police Chief Al Schettino*  
*Water & Sewer Monthly Report – General Manager Jeff Poteet*

#### Utility Rate Analysis - Request for Additional Compensation from PRMG (Rob Ori)

*No action was taken by Council regarding the request from Public Resources Management Group (PRMG) for additional compensation.*

*Council engaged in a lengthy discussion regarding the issue of the utility rate structure.*

*Public Comment:*

*Mr. Ray Seward, 287 Rockhill Court, suggested allowing Councilor Petricca to do a water rate study.*

*Dr. Fay Biles, President of the Marco Island Tax Payer's Association agreed with Mr. Seward's recommendation.*

*Mr. Bill Harris, 101 Greenview Street, suggested putting in deduct meters and making the rate per gallon the same for everyone.*

**MOTION by Councilor Honecker to authorize the City Manager to hire a consultant, in an amount not to exceed \$50,000, to design a rate structure for the City of Marco Island that is utilized by the City of Marathon. MOTION FAILED FOR LACK OF A SECOND.**

**MOTION by Councilor Honig, seconded by Councilor Rios directing the City Manager to come back with a plan for deduct meters. MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 5 - Councilor Batte, Vice-Chair Brown, Councilor Honig, Chairman Sacher and Councilor Rios

**No:** 2 - Councilor Honecker and Councilor Petricca

**MOTION by Vice-Chair Brown, seconded by Councilor Honig, directing staff to advertise a public hearing for December 1, 2014 regarding a notice of intent to implement a 2.1% increase in water rates. MOTION FAILED BY THE FOLLOWING VOTE:**

**Yes:** 3 - Councilor Batte, Vice-Chair Brown and Councilor Honig

**No:** 4 - Councilor Honecker, Councilor Petricca, Chairman Sacher and Councilor Rios

**MOTION by Councilor Honecker, seconded by Councilor Rios for one rate design for both water and sewer that is based on consumption for all classes of customers, with no base charge. MOTION FAILED BY THE FOLLOWING VOTE:**

**Yes:** 3 - Councilor Honecker, Councilor Petricca and Councilor Rios

**No:** 4 - Councilor Batte, Vice-Chair Brown, Councilor Honig and Chairman Sacher

**MOTION by Vice-Chair Brown, seconded by Councilor Rios, to extend the meeting past 9:30 p.m. MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 5 - Councilor Batte, Vice-Chair Brown, Councilor Honig, Chairman Sacher and Councilor Rios

**No:** 2 - Councilor Honecker and Councilor Petricca

**(a)-3**

**Report - City Owned Vacant Lots.**

*(Editorial History: At the October 20, 2014 City Council meeting, staff was instructed to compile a list of the remaining surplus vacant lots for possible disposition.)*

*City Manager Roger Hernstadt introduced the item, reporting that there are nineteen (19) vacant parcels owned by the City, nine (9) of which are marketable for sale at the direction of City Council.*

**MOTION by Councilor Petricca, seconded by Councilor Rios, directing staff to request proposals from realtors to perform appraisals on marketable properties, and to provide an estimate of the impact of the sale of properties on the City's flood insurance premiums. MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 4 - Vice-Chair Brown, Councilor Petricca, Chairman Sacher and Councilor Rios

**No:** 3 - Councilor Batte, Councilor Honecker and Councilor Honig

**b. Community Announcements**

*City Clerk Laura Litzen reported community events occurring November 11, through November 30, 2014.*

**c. Presentations**

**Introduction of Ron L. Book, PA (City Lobbyist)**

*Mr. Ron L. Book, PA, provided a presentation encompassing lobbying services provided by his firm, and answered Council's questions.*

**8. City Attorney's Report**

*Mr. Derek Rooney, Acting City Attorney for Burt Saunders, had nothing new to report. He provided information in response to public comment regarding the feasibility of implementing a City of Marco Island road toll charge, as well as information regarding imposing a gas tax.*

*Councilor Honecker commented about items that will require Council's review in regard to the City's legal services contract with the firm of GrayRobinson, before performing the City Attorney's review in January. He asked for, and received a consensus of Council to direct staff to collect data from other communities regarding legal services provided to them, as well as to review proposals and solicit interest from the legal firms that were identified during the search for a city attorney in 2011, in preparation for Council to make decisions regarding how to move forward.*

**9. Citizens' comments on agenda items not scheduled for public hearing and items other than those appearing on the agenda.**

*Mr. James Timmerman, 831 Perrine Court, commented about an issue of concern regarding the dumping of raw sewage into the canal that was not addressed as recommended by the Waterways Advisory Committee.*

*Chairman Sacher made a request of the City Manager to report back to Council after looking into the issue reported by Mr. Timmerman.*

*Ms. Phyllis Marco, 4000 Royal Marco Way, and a member of the Board of Directors of the Marco Island Civic Association, provided additional information regarding a suggestion she made at the last meeting to implement a toll to cross the Jolley Bridge.*

*Ms. Sandi Riedemann Lazarus, speaking on behalf of the Chamber of Commerce, and Co-Chairman of the Celebration Committee of the 50th Anniversary of Modern Marco, provided an update of the 2015 celebration.*

*Mr. Russ Colombo, 755 Plantation Court, acknowledged Acting Police Chief Schettino for administering CPR to a citizen who took ill while attending the last meeting of the Planning Board.*

*Mr. Bill McMullan, Seaview Court, spoke about finding other avenues for reducing the utility debt, such as imposing a gas tax.*

*Mr. Bill Harris, 101 Greenview Street, expressed his opinion about changing the City Council meeting time; implementing a toll to cross the bridge; charging a gas tax; responding to citizens comments; employee charitable contributions; and a matter relative to the City Charter.*

**10. Quasi-Judicial Public Hearings: None**

**11. Ordinances**

**a. Ordinance - First Reading - Fiscal Year 2014 Budget Re-appropriation**

*(Editorial History: Each year the City prepares the budget based on estimated revenues and expenses for the coming year. During the course of the fiscal year budget adjustments and revisions are approved due to operational activities and actual expenses. The Finance Department updates the City Council throughout the fiscal year on the status of the budget. These adjustments and revisions are then combined into a re-appropriation ordinance for ratification by City Council at the fiscal year end. The final amended FY budget is hereby submitted to City Council for consideration.)*

*City Clerk Laura Litzan read, by title only, the first reading of the Ordinance.*

*Finance Director Guillermo Polanco introduced the item and answered questions.*

*There was no public comment.*

*Council made the following motions:*

**MOTION by Councilor Honecker, seconded by Vice-Chair Brown, to bifurcate the Utility Fund Budget from the City-Wide Budget. MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 6 - Councilor Batte, Vice-Chair Brown, Councilor Honecker, Councilor Petricca, Chairman Sacher and Councilor Rios

**No:** 1 - Councilor Honig

**MOTION by Councilor Honecker, seconded by Vice-Chair Brown approving the General Fund Budget. MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 6 - Councilor Batte, Vice-Chair Brown, Councilor Honecker, Councilor Petricca, Chairman Sacher and Councilor Rios

**No:** 1 - Councilor Honig

**MOTION by Councilor Honecker, seconded by Councilor Honig to re-appropriate the Utility Budget. MOTION FAILED BY THE FOLLOWING VOTE:**

**Yes:** 3 - Councilor Batte, Councilor Honig and Chairman Sacher

**No:** 4 - Vice-Chair Brown, Councilor Honecker, Councilor Petricca and Councilor Rios

**MOTION by Vice-Chair Brown, seconded by Councilor Honig to reconsider the Motion to approve the first reading of the FY 2014 Budget Re-appropriation Ordinance. MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 5 - Councilor Batte, Vice-Chair Brown, Councilor Honig, Chairman Sacher and Councilor Rios

**No:** 2 - Councilor Honecker and Councilor Petricca

**MOTION by Vice-Chair Brown, seconded by Councilor Honig approving the first reading of the FY 2014 Budget Re-appropriation Ordinance. MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 5 - Councilor Batte, Vice-Chair Brown, Councilor Honig, Chairman Sacher and Councilor Rios

**No:** 2 - Councilor Honecker and Councilor Petricca

**b. Ordinance - First Reading - Magistrate Ordinance**

*(Editorial History: At the City Council meeting of September 22, 2014, Council approved a Magistrate system for code enforcement.)*

*City Clerk Laura Litzan read, by title only, the first reading of the Magistrate Ordinance.*

*Council discussed, and approved a language change to the Ordinance. Council also proposed delegating authority to the City Manager to negotiate and mitigate code enforcement matters prior to being brought before the Magistrate.*

*There was no public comment.*



**MOTION by Councilor Honecker, seconded by Councilor Petricca, approving the first reading of the Magistrate Ordinance, amended with a change in language. MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 7 - Councilor Batte, Vice-Chair Brown, Councilor Honecker, Councilor Honig, Councilor Petricca, Chairman Sacher and Councilor Rios

## **12. Resolutions for Adoption**

### **a. Resolution to Approve Convenience Fee Rates**

*(Editorial History: As the City continues to move forward in automating its processes in order to provide a higher level of customer service, it is necessary to set convenience fee rates that allow for online fee payments. Florida Statutes permit the use of convenience fees to recoup the costs incurred to provide these services.)*

*City Clerk Laura Litzen read, by title only, Resolution 14-68.*

*Finance Director Guillermo Polanco introduced the item and answered questions.*

*There was no public comment.*

**MOTION by Councilor Honig, seconded by Vice-Chair Brown, approving Resolution 14-68. MOTION FAILED BY THE FOLLOWING VOTE:**

**Yes:** 3 - Councilor Batte, Councilor Honecker and Councilor Honig

**No:** 4 - Vice-Chair Brown, Councilor Petricca, Chairman Sacher and Councilor Rios

### **b. Resolution Authorizing a Payment Gateway Agreement with Paymentus**

*(Editorial History: In order for the City of Marco Island to offer alternative payment channels to its customers it is recommended that the City use a payment gateway provider rather than the customary merchant services provided by financial institutions or their third party affiliates. Paymentus is a competitor to Paypal, but in addition to processing payments the Company provides payment gateway services such as the processing of payments from other third party banks using its proprietary payment aggregator.)*

*City Clerk Laura Litzen read, by title only, Resolution 14-69.*

*Finance Director Guillermo Polanco introduced the item and answered questions.*

*There was no public comment.*

**MOTION by Councilor Honig, seconded by Councilor Batte, approving Resolution 14-69. MOTION FAILED BY THE FOLLOWING VOTE:**

**Yes:** 3 - Councilor Batte, Vice-Chair Brown and Councilor Honig

**No:** 4 - Councilor Honecker, Councilor Petricca, Chairman Sacher and Councilor Rios

**c. Resolution Authorizing Arbitrage Services with First Southwest Capital Company**

*(Editorial History: The City of Marco Island currently has a contract with First Southwest for various services related to its bond issues including arbitrage calculations. The City has been working with First Southwest to gather all pertinent information in order to properly document the calculation of any arbitrage rebate for each of its tax exempt bonds. Section 148 of the IRS Code requires that a calculation be performed for all bond issues having a tax exempt status in order to confirm that the proceeds are not producing a higher amount of income than allowed for that particular type of debt. The City intends to perform arbitrage calculations beginning with calendar year 2010 through 2014.)*

*City Clerk Laura Litzan read, by title only, Resolution 14-72.*

*Finance Director Guillermo Polanco introduced the item and answered questions.*

*There was no public comment.*

**MOTION by Councilor Honecker, seconded by Vice-Chair Brown, approving Resolution 14-72. MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 7 - Councilor Batte, Vice-Chair Brown, Councilor Honecker, Councilor Honig, Councilor Petricca, Chairman Sacher and Councilor Rios

**d. Resolution Approving a Variance and Site Development Plan - Tigertail Observation Deck**

*(Editorial History: Collier County Parks and Recreation is requesting a Variance and Site Development Plan to construct an observation deck seaward of the Coastal Construction Setback line. The project was approved by the Planning Board on October 3, 2014.)*

*City Clerk Laura Litzan read, by title only, Resolution 14-71.*

*Mr. Michael Delate, PE, with the engineering firm of GradyMinor, was available to answer questions.*

*There was no public comment.*

**MOTION by Councilor Honecker, seconded by Councilor Petricca, approving Resolution 14-71. MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 6 - Councilor Batte, Vice-Chair Brown, Councilor Honecker, Councilor Honig, Councilor Petricca and Chairman Sacher

**No:** 1 - Councilor Rios

**13. Citizens' Comments**

*None.*

**14. Council Comments**

*Councilor Honecker:*

- *Suggested having representatives from law firms present at the legal services discussion scheduled in January.*
- *Questioned if the Community Room is appropriate for renaming in honor of Bedford and Fay Biles, noting that the room's use may change at some point, and suggesting instead renaming a structure with longevity, e.g. the Veterans Center.*
- *Suggested renaming the Smokehouse Bay Bridge in honor of Mr. Herb Savage.*
- *Asked for and received a consensus of Council to direct staff to formulate an ordinance for consideration, authorizing the use of artificial turf for single family homes.*

*Chairman Sacher:*

- *Received approval from Council to schedule discussion regarding contact by Council with elected officials, as well as with City staff at the December 1, 2014 meeting.*

**15. Adjournment**

*There being no further business to come before City Council, the meeting adjourned at 10:56 p.m.*

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*Larry Sacher, Council Chairman*

*ATTEST:*

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*Laura Litzan, City Clerk*

*PREPARED BY:*

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*Sandra Schildhorn, Secretary*