

RESOLUTION 20-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING ARTICLES OF INCORPORATION FOR THE CREATION OF THE MARCO ISLAND COMMUNITY PARKS FOUNDATION, INC.; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in order to facilitate community-wide fund raising efforts for the City of Marco Island, Florida (the "City") the City desires to create a separate legal entity under the provisions of Chapter 617 of the laws of the state of Florida to be known as "Marco Island Community Parks Foundation, Inc." (the "Foundation"); and

WHEREAS, the Foundation shall be created as a Florida not for profit corporation which may seek and receive donations for the improvement of municipal community parks located or to be located in the City, and is envisioned to function as a 501(c)(3) entity under the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the City Council believes it is in the best interest of the City and its residents to adopt this Resolution providing for the Articles of Incorporation of the Foundation.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

Section 1. Recitals. That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are incorporated herein.

Section 2. Creation of Corporation. That the City Council of the City (the "City Council") hereby creates the Foundation and approves the attached Articles of Incorporation and hereby approves the filing of such Articles of Incorporation with the Florida Division of Corporations.


Section 3. Implementation. That the City Manager and City Attorney are hereby authorized to take any action which is necessary for the implementation of this Resolution and the Articles of Incorporation.

Section 4. Appointment of Board of Directors. That upon the filing of the Articles of Incorporation as provided in Section 2 above, the City Council is hereby authorized to appoint the Board of Directors of the Foundation as provided in Section 6.3 of the Articles of Incorporation.

Section 5. Effective Date. That this Resolution shall become effective immediately upon its adoption.

Passed in open and regular session of the City Council of the City of Marco Island, Florida this 6th day of January 2020.

ATTEST:

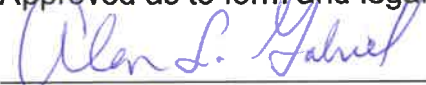


Laura M. Litzan, City Clerk

CITY OF MARCO ISLAND, FLORIDA
By: 

Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:



Alan L. Gabriel, City Attorney

**ARTICLES OF INCORPORATION
OF
MARCO ISLAND COMMUNITY PARKS FOUNDATION, INC.**

The undersigned incorporator, desiring to form a not-for-profit corporation under the provisions of Chapter 617 of the laws of the State of Florida, does hereby establish the following Articles of Incorporation (the "Articles"):

ARTICLE I

Name and Principal Address

The name of this corporation shall be **MARCO ISLAND COMMUNITY PARKS FOUNDATION, INC.** (the "Corporation"), and its principal office is located at c/o City of Marco Island, Florida, Attention City Manager, 50 Bald Eagle Drive, Marco Island, Florida 34145.

ARTICLE II

Seal and Corporate Nature

The seal of this Corporation shall contain the words "Marco Island Community Parks Foundation, Inc., a corporation not-for-profit." This is a Florida non-profit corporation pursuant to Chapter 617, Florida Statutes, the Florida Not For Profit Corporation Act, as amended.

ARTICLE III

Term and Commencement

The Corporation shall have perpetual existence unless dissolved in accordance with these Articles and applicable law. Corporate existence shall commence with the filing of these Articles with the Secretary of State of Florida.

ARTICLE IV

Purpose

This Corporation is organized and shall operate exclusively for educational, cultural and charitable purposes as evidenced by conducting or supporting activities for the benefit of or to carry out the purposes of Marco Island Community Parks Foundation, Inc., but limited in all events to exempt purposes described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and this Corporation may engage in only such activities permitted under the laws of the State of Florida and the United States of America as shall constitute activities in furtherance of such exempt purposes. The Corporation is a non-profit corporation organized to provide a broad source of community support for parks ("City Parks") located or to be located within the City of Marco Island, Florida (the "City"), a municipal corporation established August 27, 1997, in Collier County,

Florida, pursuant to the Charter and the Constitution of the State of Florida. No part of the assets or the net earnings of the Corporation shall be distributed to any officer, director, member or any private person.

ARTICLE V

Functions, Powers and Restrictions

5.1. Functions:

It is expected that the Corporation will provide fundraising activities for the City Parks. The sites on which the City Parks are located or to be located are owned by the City. The Corporation shall be responsible for raising funds for various purposes of the City Parks, including City Parks maintenance, capital improvements and technological and safety enhancements, and those other duties as may be established from time to time by the City Council.

5.2. Powers:

The Corporation may exercise all powers granted to a not-for-profit corporation under the laws of the State of Florida. These powers include, but are not limited to:

- a. To use the proceeds of donations, grants or other funding in the exercise of its powers and purposes; and
- b. To do any and all lawful acts and things which may be necessary, useful or proper for the furtherance or attainment of all of the purposes or powers of the Corporation; provided, however, that the Corporation may not exercise any power in such a manner as would disqualify the Corporation for exemption from income tax under Section 501(c)(3) of the Internal Revenue Code, as amended, or the corresponding provision of any future United States Internal Revenue Law.

5.3. Restrictions:

Notwithstanding any other provisions of these Articles of Incorporation or the Bylaws of the Corporation, the Corporation shall be restricted as follows:

- a. No part of the net earnings of the Corporation shall inure to the benefit of any director, officer or other associate or representative of the Corporation or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation in effecting one or more of its purposes), and no director, officer or private individual shall be entitled to share the distribution of the Corporation's assets upon dissolution of the Corporation;

- b. The Corporation shall not carry on any other activities not permitted to be undertaken by: (i) a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, as amended, or the corresponding provisions of any future United States Internal Revenue Law, or (ii) a corporation to which contributions are deductible under Section 170(c)(2) of the Internal Revenue Code, as amended, or the corresponding provisions of any future United States Internal Revenue Law;
- c. The Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes of this Corporation; and
- d. The Corporation shall not be operated for profit.

ARTICLE VI

Board of Directors

The Board of Directors is responsible for the direction and control of all matters pertaining to the Corporation. In addition to the fundraising activities, the Board of Directors may have an advisory role as to the grant of naming rights at the City Parks pursuant to procedures and duties established from time to time by the City Council of the City (“City Council”), and subject to compliance with Agreements entered into by the City.

6.1. Members of Board of Directors:

- (a) The affairs of the Corporation shall be managed by the Board of Directors, all of whom shall serve without compensation. There shall initially be seven (7) Directors; One member of the Board of Directors shall be the Chair of the City’s Parks and Recreation Committee and at all times there shall be no less than seven (7) nor more than eleven (11) Directors. All of the Directors must be residents of the City.
- (b) The City Clerk shall be a non-voting ex-officio member of the Board of Directors in addition to the seven (7) Directors provided in Section 6.1(a) hereof.

6.2. Election and Terms of Directors:

The number of Directors shall be fixed at each annual meeting but shall not be reduced in such manner as to affect the existing term of any Director and may be increased as described herein. The number so fixed may be increased or decreased (subject to approval of the City Council) within the limits specified in Section 6.1 at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for that purpose.

6.3. Appointment of Directors:

Subject to the provisions contained herein, the City Council shall initially nominate six (6) members of the Board of Directors. All appointments shall be made by the City Council members, Chair Person, or City Manager subject to final approval by the City Council.

6.4. Qualifications of Directors

It is essential goal of the Corporation that funding be raised or pledged for the City Parks. As such, the members of the Board of Directors are encouraged to devote time, professional knowledge, personal influence, personal resources and/or a combination thereof to attain the goals of the Corporation and shall be selected by reason of their abilities to do the following:

- a. To provide and secure financial support for the activities of the Corporation. The skills and/or resources of the Directors are vital to the financial well-being of the Corporation. Also, Directors, because they have great standing in the community, may greatly influence individuals, corporations, foundations and government agencies to provide financial support.
- b. To volunteer their specialized business expertise, advice and guidance to working committees when needed.
- c. To spearhead and to reinforce all community and public relations work of the Corporation.

6.5. Term of Directors:

Each of the Directors shall serve for a term of two (2) years. All Directors shall be permitted to serve an unlimited number of terms. The Chair Person and Vice Chair Person shall be permitted to serve one full term in such capacity.

6.6. Filling of Vacancies:

Upon the occurrence of any vacancies of a Director, the City's Chair Person, with the affirmative vote of the City Council, shall designate a replacement to fill such vacancy. Each person selected to fill such vacancy shall hold office for the unexpired term of his/her predecessor in office.

6.7. Resignations:

Any Director may resign from his/her office at any time by delivering his/her resignation in writing to the Chair Person and Vice Chair Person of the Corporation, and the acceptance of

such resignation, unless required by the terms thereof, shall not be necessary to make such resignation effective.

6.8. Removal of Directors:

Any Director may be removed by the affirmative vote of the City Council, provided such Director has been given prior notice that the subject of his/her removal will be presented to the City Council at a duly noticed meeting.

ARTICLE VII

Meetings of Board of Directors

7.1. Meetings of Board of Directors:

Every meeting of persons who are Directors of the Corporation at which there is a quorum shall be a meeting of the Board of Directors, and except as otherwise provided herein, any action taken at such meeting shall be the action of the Board of Directors in so far as such action is authorized by law.

7.2. Minutes:

Action taken at meetings of the Board of Directors shall be recorded in minutes. Such minutes need not distinguish between the different types of meetings in which action is taken.

7.3. Annual Meeting, Other Meetings:

The Annual Meeting for the election of officers and for the transaction of such other business as may properly come before the Directors shall be held on such day in the month of September or October in each year at such time and place as the Board of Directors shall determine and specify in the notice of meeting.

The Board of Directors shall meet on a monthly basis or as often as necessary to attend to the business of the Corporation.

7.4. Regular Meetings:

Regular meetings, at which any action taken shall be action only of the Board of Directors, shall be held on such days, times, and places as the Board of Directors shall determine.

7.5. Special Meetings:

Special meetings shall be called at any time by the Secretary, upon the request of the Chair Person or upon the written demand, of any three Directors.

7.6. Time and Place of Meetings:

All meetings shall be held at such time and place within the City as may from time to time be fixed by the Board of Directors or, in the case of regular meetings, as may be fixed by the Chair Person or the Secretary and, in the case of annual meetings and special meetings, as may be designated in the respective notices or waivers of notice thereof.

7.7. Waiver of Notice:

No notice of the time, place or purpose of any meeting of the Corporation or of any meeting of the Board of Directors, or any publication thereof, whether prescribed by law, or by these Articles of Incorporation, need be given to any person who attends such meeting, or who, in writing, executed either before or after the holding thereof, waives such notice and such attendance or waiver shall be deemed equivalent to notice.

7.8. Quorum and Voting:

A majority of the voting members of the Board of Directors shall constitute a quorum for the transaction of business by the Directors, and whenever any corporate action is to be taken by vote of the Directors, it shall, except as otherwise required herein or by law, be authorized by a majority of the votes cast at a meeting of Directors. Except as otherwise provided by law or by these Articles of Incorporation, the affirmative vote of a majority of the voting members of the Board of Directors present shall be the act of the Board, and in the absence of a quorum, the Board shall take an adjournment until a quorum shall be present.

Subject to compliance with the provisions of the Florida Government in the Sunshine Law which would apply to a government agency, any one or more Directors may participate in a meeting of the Board by means of conference telephone or similar communications equipment allowing all persons participating in a meeting to hear each other at the same time.

7.9. Presumption of Assent:

No voting member of the Board of Directors may abstain from voting except for an asserted conflict of interest, which must be stated on the record. A Director who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless he/she votes against such action or abstains from voting because of an asserted conflict of interest.

7.10. Attendance Requirements:

The Secretary shall maintain a record of attendance of the Directors at the regularly scheduled Board meetings. At any time the Secretary finds that a Director has failed to attend three (3) consecutive regularly scheduled meetings or half of all regular meetings in a twelve-month period (a Director shall be deemed absent for this purpose if he or she is not present for at least three-quarters of the meeting), the Secretary shall so advise the Chair Person and the Board. The Directors (other than the member reported for such failure to attend meetings) may remove such non-attending member from the Board by the affirmative vote of a majority of all such Directors other than the non-attending member.

7.11. Financial Disclosure:

Directors shall file the same Florida Financial Disclosure Statements required of municipal officers.

7.12. The Sunshine Law:

The Board of Directors shall comply with Florida Government in the Sunshine Law in the conduct of all its meetings to the same extent as if it were an elected body.

7.13. Public Records Act:

The Corporation shall comply with Florida Public Records Act as if it were a governmental agency.

ARTICLE VIII

Election of Officers

8.1. Election of Officers:

At the first meeting and at each annual meeting of the Board of Directors, the Board of Directors shall elect a Chair Person, Vice Chair Person and a Treasurer, all of whom shall be Directors. The Secretary of the Board of Directors shall be the City Clerk. The Board may also appoint one or more Assistant Secretaries and Assistant Treasurers, who need not be Directors. Officers of the Corporation shall serve without compensation. An Officer which has been bestowed an office by the Board may be removed from office by the affirmative vote of the Board, provided such Officer has been given the right to a hearing prior to his/her removal from office.

8.2. Duties of Officers:

a. Chair Person:

The Chair Person shall preside at all meetings of members of the Board of Directors. The Chair Person shall have such other duties as may be fixed by the Board of Directors.

b. Vice Chair Person :

The Vice Chair shall have such duties as may be fixed by the Board of Directors. In the Chair's absence, the Vice Chair Person shall preside at meetings of members of the Board of Directors.

c. Secretary:

The Secretary shall keep a record in permanent form of all meetings of the Board and shall send out notices of all meetings of the Board of Directors. In the Chair Person and Vice Chair Person's absence, the Secretary shall preside at meetings of members of the Board of Directors.

d. Treasurer:

The Treasurer shall have the responsibility for the custody and investment of all funds and assets of the Corporation and shall hold and disburse them in accordance with the instructions of the Board of Directors. Handling of funds shall be subject to fiscal controls required by the City Manager. The Treasurer shall insure that all monies belonging to the Corporation are deposited in such banks as the City Council shall designate, said monies to be deposited to the account of the Marco Island Community Parks Foundation, Inc. The Treasurer shall insure that true books of accounts are kept and shall make such reports as are required by the Board or the Chair Person. Said books shall at all times be open to inspection by any of the Directors. The Treasurer shall be bonded. The Treasurer shall serve as Chair Person of the Finance Committee, if any. In the event of the Chair Person, Vice Chair Person and Secretary's absence, the Treasurer shall preside at meetings of members of the Board of Directors.

ARTICLE IX

Miscellaneous Provisions

9.1. Staff Functions:

City Staff shall perform the day-to-day operations of the Corporation and such duties and personnel shall be pursuant to a plan provided by the City Manager and approved by the City Council.

9.2. Startup Costs:

The City shall initially grant to the Corporation an amount not to exceed Ten Thousand and No/100 Dollars (\$10,000.00) to be used for the initial startup costs of the Corporation.

9.3. Execution of Corporate Instruments:

The Board of Directors may designate the officers and agents who shall have authority to execute any instrument on behalf of the Corporation. When the execution of any contract, conveyance or other instrument arises in the ordinary course of the Corporations activities, or has been authorized without specification of the executing officers, any two of the officers may execute the same in the name and behalf of the Corporation and may affix the corporate seal thereto. No person holding more than one office shall execute, acknowledge or verify an instrument in more than one capacity.

9.4. Depositories:

All monies, securities and other valuables of the Corporation shall be deposited in the name of the Corporation in such banks, trust companies, or corporate safe deposit vaults as the City Manager from time to time shall designate for such purposes, and shall be withdrawable only by check or orders signed by the personal signature of such officers or agents as may be designated from time to time by the City Manager and the Treasurer of the Corporation. At least two signatures shall be required on all such checks or orders.

9.5. Indemnification of Officers and Directors:

Each person who acts as a Director or Officer of the Corporation shall be indemnified by the Corporation against any costs and expenses which may be imposed upon or reasonably incurred by him/her in connection with any action, suit or proceeding in which he/she may be named as a party defendant by reason of his/her being or having been such Director or Officer, or by reason of any action alleged to have been taken or omitted by him/her in either such capacity; provided however, that the Corporation shall not indemnify any such person against any costs or

expenses imposed upon or incurred by him/her in relation to matters as to which he/she shall be finally adjudged to be liable to the Corporation for negligence, misconduct or any other cause, or for any sum paid by him to the Corporation in settlement of an action, suit or proceeding based on his/her alleged dereliction of duty. This right of indemnification shall inure to each Director and Officer whether or not he/she is such Director or Officer at the time such costs or expenses are imposed or incurred, and whether or not the claim asserted against him/her is based on matters which antedate the adoption of these Articles of Incorporation; and in the event of his/her death shall extend to his/her legal representatives. Each person who shall act as Director or Officer shall be deemed to be doing so in reliance upon such right of indemnification; and such right shall not be exclusive of any other right which he/she may have. The Corporation shall have power to purchase and maintain insurance to indemnify the Corporation and its Directors and Officers to the full extent such insurance is permitted by law.

9.6. Parliamentary Authority:

Roberts Rules of Order Revised shall govern the proceedings of the Corporation, including its Board and Committees, to the extent applicable and consistent with these Articles of Incorporation and any Bylaws.

9.7. Corporate Records:

Corporate records shall be available for open review according to federal and state regulations. Such records shall be located in the City and shall remain in the custody of the Secretary of the Board. The location of the records shall be specified to the City Clerk and the City Clerk shall be provided access to the records at all times.

9.8. Fiscal Year:

The fiscal year of the Corporation shall be October 1 through September 30 of each year.

9.9. No Discrimination

The Corporation shall not adopt any measure or policy or otherwise discriminate against any person due to race, religion, color, national origin, physical or mental disability, creed, sexual preference or sex.

ARTICLE X

Amendment Of Articles Of Incorporation

Subject to the approval of the City Council, the Articles of Incorporation of this Corporation may, in any particular, be repealed, and new Articles of Incorporation, not

inconsistent with any provision of law, may be adopted, by the affirmative vote of two-thirds of the Directors, provided, however, that the Directors shall neither make nor alter any article regarding their qualifications, classifications, or term of office, nor relating to the requirements of a quorum for any meeting of the members of the Corporation, and that at least ten (10) days notice of such proposed amendment shall have been furnished to all of the Directors. Any proposed amendment(s) must be approved by a majority of the City Council before becoming effective.

ARTICLE XI

Dissolution

Upon dissolution, all of the Corporation's assets remaining after payment of all costs and expenses of such dissolution shall be distributed to the City Council for use for the City Parks. Thereafter, the City Council shall distribute the assets to the donors pursuant to a formula set forth by the City Council if the City are no longer operates any City Parks. All unexpended funds given by donations shall be subject to all costs and expenses for the operations of the Corporation. The City Council may provide for dissolution of the Corporation.

ARTICLE XII

Headings and Captions

The headings or captions of the various articles contained herein are inserted for convenience only and none shall have any force or effect, and the interpretation of the various articles shall not be influenced by any of said headings or captions.

ARTICLE XIII

Initial Registered Office and Registered Agent

The street address of the initial registered office of the Corporation shall be c/o City Manager 50 Bald Eagle Drive, Marco Island, Florida 34145, and the initial registered agent of this Corporation at such office shall be Mr. Michael McNeese, who upon accepting this designation agrees to comply with the provisions of Sections 48.091, 617.0203, 607.0501 and 607.0502, Florida Statutes, as amended from time to time, with respect to keeping an office open for service of process.

ARTICLE XIV

Incorporator

The name and address of the incorporator of the Corporation is as follows:

Mr. Michael McNeas
City Manager
City Marco Island
50 Bald Eagle Drive
Marco Island, Florida 34145

IN WITNESS WHEREOF, I, the undersigned incorporator, have executed these Articles of Incorporation this 7th day of January, 2020.



MICHAEL MCNEES

STATE OF FLORIDA
COUNTY OF COLLIER

Before me, the undersigned authority, by means of physical presence or online notarization, **MICHAEL MCNEES**, to me known to be the person who executed the foregoing Articles of Incorporation, and he acknowledged before me that he executed the same for the purposes therein mentioned and set forth. He is personally known to me or provided _____ as identification.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 7th day of January, 2020.



Signature of Notary

Name of Notary: Laura M. Litzan

My Commission Expires: 12-29-2021

(NOTARY SEAL)



**CERTIFICATE DESIGNATING PLACE OF BUSINESS FOR
THE SERVICE OF PROCESS WITHIN FLORIDA AND
AGENT UPON WHOM PROCESS MAY BE SERVED**

In compliance with Sections 48.091 and 617.0502, Florida Statutes, the following is submitted:

Marco Island Community Parks Foundation, Inc., (the "Corporation"), desiring to organize as a Florida corporation not-for-profit, has named and designated Michael McNees, City Manager of the City of Marco Island, as its Registered Agent to accept service of process within the State of Florida with its registered office located at 50 Bald Eagle Drive, Marco Island, Florida 34145

ACKNOWLEDGMENT

Having been named as Registered Agent for the Corporation at the place designated in this Certificate, I hereby agree to act in this capacity; and I am familiar with and accept the obligations of Section 617.0503, Florida Statutes, as the same may apply to the Corporation; and I further agree to comply with the provisions of Section 48.091, Florida Statutes, and all other statutes, all as the same apply to the Corporation relating to the proper and complete performance of my duties as Registered Agent.

Dated this 7th day of January, 2020.

REGISTERED AGENT:



MICHAEL MCNEES