

# City of Marco Island Florida

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



## Meeting Minutes - Draft

**Monday, October 20, 2014**

**5:30 PM**

**Community Meeting Room**

### **City Council**

*Chairman: Ken Honecker*

*City Council: Joe Batte, Bob Brown, Larry Honig, Chuck Kiester, Amadeo R. Petricca,  
and Larry Sacher*

*City Manager: Roger Hernstadt*

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

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

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

**Absent:** 0

**Also Present**

*Roger T. Hernstadt, City Manager*  
*Laura Litzan, City Clerk*  
*Burt L. Saunders, 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*  
*Alex Galiana, Parks Administrative/Facility Coordinator*  
*Betty Hernandez, Planning Administrator, Growth Management*  
*Tami Scott, Zoning Administrator, Growth Management*  
*Gretchen Baldus, Director of Information Technology*  
*Sandra Schildhorn, Administrative Assistant*  
*Citizens and Visitors*

**3. Invocation by Reverend Tim Navin of the San Marco Catholic Church****4. Pledge of Allegiance****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 Sacher, seconded by Councilor Petricca, approving the Agenda and the Consent Agenda amended to move Item 12(g) ID 14-466 following Item 6(d) Council Communications. MOTION CARRIED BY THE FOLLOWING VOTE:**

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

**No:** 2 - Councilor Honig and Councilor Kiester

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

Council Minutes for October 6, 2014

*b. Presentations*

**Punt, Pass & Kick Presentations**

*Winners of the Marco Island "Annual Punt, Pass & Kick Competition" were announced by Alex Galiana, Parks Administrative/Facility Coordinator as follows:*

<i>Boys 6/7 years old:</i>	<i>Jake Bruni</i>	<i>138',10"</i>
<i>Girls 8/9 years old:</i>	<i>Lyndsay Lowdermilk</i>	<i>125',3"</i>
<i>Boys 8/9 years old:</i>	<i>Andrew Meyers</i>	<i>129',4"</i>
<i>Girls 10/11 years old:</i>	<i>Jordan Kraley</i>	<i>60',11"</i>
<i>Boys 10/11 years old:</i>	<i>James Burns</i>	<i>154',11"</i>
<i>Boys 12/13 years old:</i>	<i>Justin Webb</i>	<i>264',3"</i>

**Beautification Advisory Committee Report**

*Ms. Susan LaGrotta, Chair of the Beautification Advisory Committee provided an update of committee activities.*

*Chairman Honecker asked for and received a consensus of Council to authorize City staff to work with the Beautification Advisory Committee to facilitate a low landscaping design for the medians in the area of the Smokehouse Bay Bridge in the interest of traffic safety. Council also made a request of staff to look into providing irrigation for the Butterfly Garden in Calusa Park.*

*c. Discussion Items*

**Proposed Future Agenda Items**

- Rental Housing*
- Right-of-Way Landscaping*

*d Council Communications*

*Chairman Honecker, on behalf of City Council, presented Councilor Chuck Kiester with a plaque in recognition of his service on the Marco Island City Council, beginning March 14, 2006, and ending November 4, 2014. Councilor Kiester thanked all who supported him over the years.*

**12. Resolutions for Adoption**

*(Editorial Note: At Council's request, Item 12(g) has been moved to follow Council Communications.)*

**g. Resolution to Adopt Utility Service Availability Assessment Program**

*(Editorial History: Staff has prepared the final assessment resolutions to levy non-ad valorem assessments on utility service availability for undeveloped lots within the City. Council is being asked to consider and adopt the final assessment resolutions for water and wastewater on undeveloped lots. Separate water and wastewater resolutions have been created and will need to be adopted by separate motions.)*

*Finance Director Guillermo Polanco read, by title only, Resolutions 14-65 and 14-66, to levy non-ad valorem assessments on undeveloped lots within the City to fund water and wastewater system improvements, and provided background information.*

**MOTION by Councilor Batte, seconded by Councilor Honig, to table discussion of assessment Resolutions 14-65 and 14-66, to levy non-ad valorem assessments on undeveloped lots within the city to fund water/wastewater system improvements. MOTION FAILED BY THE FOLLOWING VOTE:**

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

**No:** 4 - Chairman Honecker, Councilor Kiestler, Councilor Petricca and Vice-Chair Sacher

*Council engaged in a lengthy discussion regarding the proposal to levy non-ad valorem assessments on undeveloped lots within the city to fund water/wastewater system improvements.*

*Public Comment:*

*Ms. JoAnn Nester, 165 Gulfstream Street, expressed opposition to the proposed assessments.*

*Mr. Todd Tateo, 749 Plantation Court, voiced his objection to the special assessments.*

*Mr. Erik Brecknitz, 5000 Royal Marco Way, spoke on behalf of the Hideaway Beach community, pointing out that many of the lots in Hideaway are small in size and will probably never be developed. He also stated that no emphasis has been put on the differentiation of lots in terms of value, size, or zoning, and that the assessment should not apply to Hideaway Beach because they independently built their own sewer system.*

*Mr. John Tateo, 750 Inlet Drive, suggested rethinking and restructuring the issue, as well as considering a referendum of the people.*

*Mr. Jose Granda, 831 Partridge Court, recommended not making any changes. He stated he is opposed to the assessments and that the term fair and equitable in regard to the utility rate structure should be redefined because there are differences of opinion regarding what is fair and equitable.*

*Mr. Bill McMullan, Seaview Court, speaking on behalf of concerned citizens, stated that the public is entitled to hear an explanation from Council face-to-face in order to vet the issue and to determine what is fair and equitable.*

*Dr. Gerald Swiacki, 667 Thrush Court, expressed his support of the assessments.*

*Mr. Richard Cowgill, 1295 Riverhead Avenue, voiced opposition to the assessments, and questioned how the monies collected will be used.*

*Cindy, last name not stated, 434 Tarpon Court, is of the opinion that there was not enough transparency in the letter that was sent to citizens about the assessments, and stated that if there is an assessment everyone should be assessed fairly.*

*Mr. Mike McCarty, real estate agent, stated that realtors have been put into an uncomfortable position because their clients had no advance warning about the assessments.*

*Following public comment, Chairman Honecker made a request of Water & Sewer Department General Manager Jeff Poteet to define, for the benefit of the public, plant capacity versus infrastructure. Mr. Poteet reported that plant capacity is sized to meet the needs of the community at build-out so that anyone desiring to connect to the sewer can do so at any time.*

*Mr. Christopher Roe, Special Assessment Counsel for the City with the firm of Bryant Miller Olive, provided legal counsel regarding the regulations as outlined by the State of Florida for notifying the public of the assessments, and provided information regarding the City's special assessment ordinances. He stated that the proceeds from the assessments will be used for the purposes stated in the resolutions, i.e., paying for the capacity in the system necessitated by growth, and building a system large enough to accommodate all parcels on the island once they finally develop. Mr. Roe also advised Council to establish a resolution of intent in order to reserve the right to use the uniform method for the levy, collection and enforcement of non-ad valorem assessments.*

**MOTION by Councilor Batte, seconded by Councilor Brown, to continue to January 20, 2015, discussion of assessment Resolutions 14-65 and 14-66, to levy non-ad valorem assessments on undeveloped lots within the city to fund water/wastewater system improvements. MOTION CARRIED BY THE FOLLOWING VOTE:**

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

**No:** 2 - Chairman Honecker and Councilor Kiester

**MOTION by Councilor Petricca, seconded by Vice-Chair Sacher, to establish a Resolution of Notice of Intent to use the uniform method of collecting non-ad valorem assessments on undeveloped lots within the city to fund water/wastewater system improvements. MOTION CARRIED BY THE FOLLOWING VOTE:**

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

*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. Departmental Reports**

*Parks & Recreation Monthly Report  
Growth Management Monthly Report  
Water & Sewer Monthly Report  
Finance and Information Technology Monthly Report  
Public Works Monthly Report*

### **b. Community Announcements**

*City Clerk Laura Litzan reported community events occurring October 20 through November 11, 2014. Ms. Litzan also apprised Council of the items that will be on the agenda for the joint meeting between Council and the Collier County Board of Commissioners scheduled for December 2, 2014.*

## **8. City Attorney's Report**

*City Attorney Burt Saunders provided an update concerning a litigation matter, reported that the expanded Building Department investigative report was finalized, and requested feedback from Council regarding the format of the City Attorney Report.*

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

*Ms. Phyllis Marco, 4000 Royal Marco Way, and a member of the Board of Directors of the Marco Island Civic Association, suggested charging a toll to cross the Jolley Bridge.*

**10. Quasi-Judicial Public Hearings:**

*None.*

**11. Ordinances**

*None.*

**12. Resolutions for Adoption**

**a. Resolution to create a City Code Advisory Committee**

*(Editorial History: At the Council meeting of September 23, 2014, Council approved a Magistrate system for code enforcement and discussed the formation of a City Code Compliance Advisory Committee, transitioned from the current Code Enforcement Board. City Council considered adoption of a resolution creating a City Code Compliance Advisory Committee at the October 6, 2014 Council meeting, at which time they directed staff to make revisions to the resolution. The revised resolution is being presented to Council for consideration.)*

*City Clerk Laura Litzan read, by title only, Resolution 14-67.*

**MOTION by Councilor Honig, seconded by Councilor Batte, approving Resolution 14-67. MOTION CARRIED BY THE FOLLOWING VOTE:**

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

**b. Resolution Regarding Amendment #2 - Medical Marijuana**

*(Editorial History: At the City Council meeting of October 6, 2014, Council directed staff to draft a resolution opposing Amendment #2.)*

*City Clerk Laura Litzan read, by title only, Resolution 14-60.*

*Public Comment:*

*Mr. Bill McMullan, Seaview Court, stated that there will be ample time for action if the amendment is passed, and we are "putting the cart before the horse."*

**MOTION by Councilor Brown, seconded by Councilor Honig, approving Resolution 14-60, as amended. MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 5 - Councilor Batte, Councilor Brown, Chairman Honecker, Councilor Honig and Councilor Petricca

**No:** 2 - Councilor Kiester and Vice-Chair Sacher

c. Resolution Approving an Off-Site Parking Agreement for the Philly Grille

*(Editorial History: The owners of the Philly Grille would like to expand their restaurant to include an additional 1100 square feet adjacent to their current space. Approval of the expansion is contingent on meeting the parking requirements outlined in Section 30-488 of the Land Development Code. The shopping center they are located in (Heritage Square) cannot reasonably provide additional parking spaces on the property. The Philly Grille currently has 43 seats and plans to go up to 75 seats with the expansion. This increase of 32 seats will require the need for an additional 8 parking spaces according to our new 1:4 spaces per seat code requirement. Marco Canvas, located at 991 Chalmers Drive, has signed a Cross-Parking Agreement with the Philly Grille for the use of 8 parking stalls on their property for the dinner service. Additionally, the owner of Ciao Bella, located within Heritage Square has also signed a letter stating their cooperation to allow the Philly Grille to utilize their parking spaces during the day lunch service. Should Ciao Bella begin serving lunch, the owners of Philly Grille will make alternate parking arrangements as required.)*

City Clerk Laura Litzan read, by title only, Resolution 14-61, approving an off-site parking agreement for the Philly Grille.

Zoning Administrator Tami Scott presented the item and provided background information. Council questioned the City's system for tracking of cross-parking agreements. City Manager Rodger Hernstadt indicated that staff has a method in place for tracking of all cross-parking agreements.

Public Comment:

Mr. Phil Kostelnik, 121 Channel Court, stated that he has a special event planned at Ciao Bella next month, which is a luncheon, and will require 25 to 40 parking spaces.

City Manager Roger Hernstadt reported that staff will look into the issue of a conflict and act accordingly.

**MOTION by Vice-Chair Sacher, seconded by Councilor Kiester, approving Resolution 14-61. MOTION CARRIED BY THE FOLLOWING VOTE:**

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

d. Resolution Approving the Site Development Plan - Marriott Crystal Shores Beach Access

*(Editorial History: The application and documentation provided for review is a Site Development Plan for a Public Beach Access. The applicant is re-submitting a previously approved plan from 2009. The approved April 6, 2009 documents have expired, requiring the applicant to re-submit. Completion of the project is scheduled to be on or before October 14, 2015. The project was presented to the Planning Board on October 3, 2014, and unanimously approved.)*

City Clerk Laura Litzan read, by title only, Resolution 14-64.

Zoning Administrator Tami Scott provided an overview of the project.

Mr. Craig Woodward, attorney representing the petitioner and Mr. Dave Taylor, engineer with the firm of Harris Civil Engineers, LLC provided information and answered Council's questions.

*Public Comment:*

*Mr. Victor Rios, 970 Cape Marco Drive, commented that lighting of the beach access should only be permitted for special events and that signage regarding beach regulations should be included as part of the site plan.*

*Ms. Hayley Harrison, landscape architect for the Crystal Shores project, reported that educational signage is included in the site plan.*

**MOTION by Councilor Brown, seconded by Councilor Honig, approving Resolution 14-64, as amended. MOTION CARRIED BY THE FOLLOWING VOTE:**

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

**e. Resolution Approving the Marriott Crystal Shores Site Development Plan Phase 2 - Final Build Out**

*(Editorial History: The Site Development Plan to complete the final phases of the Marriott Crystal Shore Master Plan includes two new tower buildings, a parking garage structure, hardscape, landscape and pools, and exterior and interior improvements to the existing tower building. The project was presented to the Planning Board on October 3, 2014, and unanimously approved.)*

*City Clerk Laura Litzan read, by title only, Resolution 14-63.*

*Zoning Administrator Tami Scott provided background information regarding the project and the attorney for the petitioner, Mr. Craig Woodward, provided additional information and answered Council's questions.*

*Public Comment:*

*None.*

**MOTION by Councilor Honig, seconded by Councilor Brown, approving Resolution 14-63, as amended. MOTION CARRIED BY THE FOLLOWING VOTE:**

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

**f. Resolution Approving Site Development Plan SDP-14-06 for Marco Island Marriott Beach Resort located at 400 S. Collier Boulevard**

*(Editorial History: The Marco Island Marriott Beach Resort applicants were approved on June 16, 2014 to amend their existing PUD with a redevelopment plan under the title of "Exhibit B-1" for the demolition and rebuilding of the current ballroom building "lanai" to a roof height of 111' with allowance for the elevator and stair access structures and a reconfiguration of their parking areas on the west side of South Collier Boulevard to allow for the increased parking requirements of 1244 spaces. The Site Development Plan was presented to the Planning Advisory Board on October 3, 2014, at which time they recommended sending the plan forward to City Council for their comments and final decision.)*

*City Clerk Laura Litzan read, by title only, Resolution 14-62.*

*Planning Administrator Betty Hernandez provided background information and answered questions.*

*Public Comment:*

*None.*

**MOTION by Councilor Batte, seconded by Councilor Honig, approving Resolution 14-62, as amended. MOTION CARRIED BY THE FOLLOWING VOTE:**

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

**13. Citizens' Comments:**

*None.*

**14. Council Comments**

*Councilor Petricca reported that he has provided the City Manager with a list of City owned property to consider what can be sold.*

*Chairman Honecker suggested tracking conditional use approvals in the permitting process to monitor compliance with the Code of Ordinances.*

**15. Adjournment**

*There being no further business to come before City Council, the meeting adjourned at 9:22 p.m.*

\_\_\_\_\_  
*Kenneth E. Honecker, Council Chairman*

ATTEST:

\_\_\_\_\_  
*Laura Litzan, City Clerk*

PREPARED BY:

\_\_\_\_\_  
*Sandra Schildhorn, Secretary*