

City of Marco Island Florida

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



Meeting Minutes - Final

Tuesday, November 17, 2020

10:30 AM

Community Room

Code Enforcement Magistrate

In accordance with CDC social distancing guidelines, seating at public meetings is limited. The City encourages those who wish to observe the meeting to do so through the broadcast on cable TV or the City website (www.cityofmarcoisland.com).

If you choose to attend the meeting in person, you are required to maintain social distancing. All persons entering the building will receive a health screening consisting of a temperature check and COVID-19 related questions.

(1) Cases

- a. City of Marco Island vs. Madeira on Marco Island, RR Restoration of Georgia LLC, and Caloosa Site Development – Case # 19-1720 – 350 S. Collier Blvd. Marco Island, FL 34145 – No Permit and Beach Parking

Testifying on behalf of the Madeira on Marco Island, Caleb Pringle spoke and explained the situation they are facing with the permitting, and the issue that has arisen with the transference of the permit from the original roofing contractor to the new contractor. The city agreed that Mr. Pringle has kept them informed every step of the way and confirmed that they are doing "everything they can to move the process along." The case was continued to January of 2021.

- b. City of Marco Island vs. Stephan Brouillard – Case # 20-1833 – Citation X 3056 – Prohibited Parking (trailer)

Testifying on behalf of the city, Community Service Officer Keith Richter spoke on behalf of MIPD Officer Alan Reyes, who wrote a parking citation to Stephan Brouillard for parking in the swale on August 20th, 2020. Photos were provided. The respondent, (the owner of the vehicle), then explained his situation and why he parked in the swale. The Magistrate imposed a fine of \$75 and no administrative fees.

- c. City of Marco Island vs. Stephan Brouillard – Case # 20-1834 – Citation X 3055 – Prohibited Parking

Testifying on behalf of the city, Community Service Officer Keith Richter spoke on behalf of MIPD Officer Alan Reyes, who wrote a parking citation to Stephan Brouillard for parking in the swale on August 20th, 2020. Photos were provided. The respondent, (the owner of the vehicle), then explained his situation and why he parked in the swale. The Magistrate decided to impose a fine of \$75 and no administrative fees.

- d. City of Marco Island vs. Kimberly Culbert – Case # 20-2274 – Citation # MI 520-114 – Prohibited Parking

Testifying on behalf of the city, Community Service Officer Joe Dodd explained the facts of the case, stating that he wrote the violation on 10/11/2020 to a Kimberly Culbert and provided photos. The respondent, Kimberly Culbert then explained her situation, stating why she parked in the swale and provided a defense packet. The Magistrate imposed a one-time fine of \$95 and fees and costs in the amount of \$50.

- e. City of Marco Island vs. James L. Karl – Case # 20-1610 – 1147 Edington Pl. Marco Island, FL 34145 – Noise General

Testifying on behalf of the city, MIPD Captain Dave Baer stated the facts of the case, including that an officer went out to the property on 7/30/2020 and determined a valid noise violation to be present.

The respondent, James Karl, then defended himself, stating that he has been holding deposits and contacting his guests about the noise ordinance. He also stated that he is going to install noise detecting software in his home. The Magistrate decided to impose a fine of \$500 and fees in the amount of 50 dollars.

- f. City of Marco Island vs. James L. Karl – Case # 20-1675 – 1147 Edington Pl. Marco Island, FL 34145 – Noise General

Testifying for the city, MIPD Captain Dave Baer stated the facts of the case, which occurred on August 5th, 2020 at 8:08 PM. He stated that Officer Schmid reported a valid noise violation and that it was the 4th violation this year. The Magistrate imposed a \$500 fine and \$50 in fees and costs.

- g. City of Marco Island vs. James L. Karl II – Case # 20-1982 – 1849 Woodbine CT. Marco Island, FL 34145 – Noise General

MIPD Captain Dave Baer requested to withdraw the case.

- h. City of Marco Island vs. 460 Battersea LLC – Case # 20-1926 – 460 Battersea Ct. Marco Island, FL 34145 – Noise General

Testifying on behalf of the City, MIPD Captain Dave Baer spoke on behalf of Community Service Officer Anthony Ferraro, who reported a valid noise violation at the property on the 16th of August, 2020 at 1:21 AM. This was the second of three noise violations occurring this year. The property manager spoke on behalf of the respondent, stating that they are "taking measures to prevent future violations." The magistrate imposed a fine of \$250 and fees and costs in the amount of 50 dollars.

- i. City of Marco Island vs. Odon Kasindi – Case # 20-1927 – 916 Loyalty Ave. Marco Island, FL 34145 – Noise General

Testifying for the city, MIPD Captain Baer stated that Community Service Officer Ferraro reported a valid noise violation at the specified property on August 16th, 2020 at 3:40 PM. A defense packet from the rental company was presented as well. The Magistrate imposed a fine of \$500 and fees in the amount of 50 dollars.

- j. City of Marco Island vs. Valant Video – Case # 20-1953 – 1660 Winterberry Dr. Marco Island, FL 34145 – Noise General

Testifying for the city, MIPD Captain Baer stated that the dispatched officer reported a valid noise violation at the specified property on 8/22/2020 at 3:38 PM. The Magistrate imposed a one-time fine of \$250 and 50 dollars in fees and costs.

- k. City of Marco Island vs. Francis S. De Marco – Case # 20-1985 – 335 N. Barfield Dr. Marco Island, FL 34145 – Noise General

MIPD Captain Baer testified for the city, stating that on 8/29/20 at 11:40 PM, Officer Jason Nachtrab reported a valid noise violation at the property for loud music. He presented an email from the owner. The Magistrate decided to impose a one-time fine of \$250 dollars and 50 dollars in fees and costs.

- l. City of Marco Island vs. Rebecca Irwin – Case # 20-1997 – 917 Arawak Ave. Marco Island, FL 34145 – Noise General

Testifying for the city, MIPD Captain Baer stated that on 8/22/20 at 9:56 PM, Sergeant Zach Kirsch reported a valid noise violation at the property. This was their first noise case after their warning. No one appeared on behalf of the property owner and no defense was presented. The Magistrate imposed a fine of \$250 and 50 dollars in fees and costs.

- m. City of Marco Island vs. Joan A. Dodds Revocable Trust – Case # 20-2013 – 1853 Honduras Ave. Marco Island, FL 34145 – Noise General

Testifying on behalf of the city, MIPD Captain Dave Baer spoke on behalf of MIPD Lieutenant Matt Gallup, who reported the valid noise violation on August 21st, 2020 at 4:12 PM and issued a citation to the renter, which was paid. Wayne Dodd, the property owner, then spoke stating the measures he has been taking to prevent noise violations in the future. The Magistrate imposed a fine of \$250 and fees and costs in the amount of \$50.

- n. City of Marco Island vs. Weigl Florida Trust – Case # 20-2017 – 481 Heathwood Dr. Marco Island, FL 34145 – Noise General

Testifying on behalf of the city, MIPD Captain Dave Baer stated that Office Julie Pohutsky responded to a noise call at the address on 3/27/2019 and determined there to be a valid violation. The manager of the rental company then testified for the respondent, stating that he understood that a violation existed. The Magistrate imposed a fine of 250 dollars and fees in the amount of 50 dollars.

- o. City of Marco Island vs. Michael J Wainwright Rev. Trust – Case # 20-2018 – 141 Bonita Ct. Marco Island, FL 34145 – Noise General

Testifying for the city, MIPD Captain Baer stated that on 8/27/20 at 8:48 PM, Officer Joe Belardo arrived on scene and determined that the noise complaint was valid and could be heard from across the street. The Magistrate imposed a one time fine of 1000 dollars and 50 dollars in fees and costs. This case is to be recorded by Collier County.

- p. City of Marco Island vs. Michael J Wainwright Rev. Trust – Case # 20-2288 – 141 Bonita Ct. Marco Island, FL 34145 – Noise General

Testifying for the city, MIPD Captain Baer stated that on 8/29/20 at 12:13 PM, Community Service Officer Ferraro reported a valid noise violation at the address, noting that there were about 10 people in the yard and loud music. The Magistrate imposed a one-time fine of \$1000 and 50 dollars in fees and costs. This and the previous case must be recorded.

- q. City of Marco Island vs. Carlos and Magaly Gonzalez – Case # 20-2019 – 40 Copperfield Ct. Marco Island, FL 34145 – Noise General

Testifying on behalf of the city, MIPD Captain Baer spoke on behalf of Officer Julie Pohutsky, who reported a valid noise violation at the address on 8/27/2020 at 8:39 PM. He stated that she spoke to the renter who was present. The owner's daughter then spoke on their behalf, first stating that her Notice of Hearing had the wrong violation date, then explaining the violations. She first received a warning on the 20th for a complaint made by a neighbor for her kids playing in the pool. She then explained that she has had issues with her neighbors often calling for several different reasons. The violation in this instance was committed by short term renters. The Magistrate imposed a one-time fine of \$250 and fees and costs in the amount of 50 dollars.

- r. City of Marco Island vs. 600 Tigertail LLC – Case # 20-2020 – 600 Tigertail Ct. Marco Island, FL 34145 – Noise General

Testifying for the city, MIPD Captain Dave Baer stated that Officer Alejandra Moreno responded to a noise complaint at the specified property on 8/27/20 at 7:36 PM and determined there to be a valid violation. The owner of the rental company stated that he took responsibility and the Magistrate imposed a one-time fine of \$500 and fees and costs in the amount of 50 dollars.

- s. City of Marco Island vs. Ronald & Susan Meseck – Case # 20-2126 – 232 Tahiti Rd. Marco Island, FL 34145 – Noise General

Testifying for the city, MIPD Captain Baer testified for the city, stating that Officer Nachtrab reported a valid noise violation at the property on 8/28/2020, noting that they were having a party. The magistrate imposed a fine of 750 dollars and 50 dollars in fees.

- t. City of Marco Island vs. Margaret Grace Hannigan Trust – Case # 20-2286 – 28 Algonquin Ct. Marco Island, FL 34145 – Noise General

Testifying on behalf of the city, MIPD Captain Dave Baer stated that officers responded to the specified property on 8/20/2020 and determined a valid noise violation. The property manager explained that noise monitors are installed but did not go off on the date of the violation. She also stated that outside monitors have been installed since the incident. The Magistrate imposed a fine of \$250 and fees in the amount of \$50.

- u. City of Marco Island vs. Midwest Island Investors LLC – Case # 20-2290 – 123 Cyrus St. Marco Island, FL 34145 – Noise General

Testifying for the city, MIPD Captain Baer stated that Officer Belardo reported a valid noise violation at the property on 9/4/2020. The magistrate imposed a 250 dollar fine and fees in the amount of 50 dollars.

- v. City of Marco Island vs. Elk Circle LLC – Case # 20-2291 – 460 Elk Cir. Marco Island, FL 34145 – Noise General

Testifying for the city, MIPD Captain Baer stated that Officer Pohutsky confirmed a valid noise violation at the specified property on 9/4/2020. The Magistrate imposed a one-time fine of \$250 and 50 dollars in fees and costs.

- w. City of Marco Island vs. Marco Lake Efficiencies LLC – Case # 20-2353 - 139 Marco Lake Dr. Marco Island, FL 34145 – Noise General

Testifying on behalf of the city, MIPD Captain Dave Baer stated that Officer Alejandra Moreno observed a valid noise violation at the specified property on 6/20/2020 at 1:10 AM. She spoke to the renters, who refused to identify themselves. The owner of the property then testified, stating that they have short term renters who have since left. The Magistrate imposed a fine of \$250 and fees and costs in the amount of \$50.

- x. City of Marco Island vs. South Seas West Condo Assoc. & Imperial Marine Construction (LIC) – Case # 20-0870 – 260 Seaview Ct. Marco Island, FL 34145 – Beach Construction during Sea Turtle Nesting Season

Continued.

- y. City of Marco Island vs. South Seas West Condo – Case # 20-2275 – 320 Seaview Ct. Marco Island, FL 34145 – Sea Turtle Protection

Testifying for the city, Community Service Officer Andrew Lindenmuth stated the facts of the case. He said that he issued a notice of violation for sea turtle lighting at the specified property on October 20th, 2020, which he hand delivered to the condo association the next day. he showed photos as well as the documents from the case file. The magistrate imposed a fine of 500 dollars and 50 dollars in fees and costs.

z. City of Marco Island vs. W Merle Henry Trust & Tom Christian Construction Inc. – Case # 20-2159 – 461 Renard Ct. Marco Island, FL 34145 – Silt Fence

Testifying on behalf of the city, Community Service Officer Ira Warder stated that he was on routine patrol on 10/10/20 when he observed an erosion control violation at the specified property. He also stated that there was a "substantial amount of trash and debris" on the lot. He also stated that it clocked the right of way. He presented photos of the violation along with documents from the case file. He stated that he gave a compliance date of 10/17/2020, and upon reinspection, the erosion control violation was corrected, however the other violation still existed. On behalf of the respondent, Patricia Holmes of Tom Christian Construction explained the work that they were doing at the time, took responsibility for the erosion control violation, and stated that a different contractor (Blue Marlin) working at the property was at fault for the litter & debris violation. The Magistrate stated that Tom Christian Construction was still at fault for both violations, because as the general contractor of the property they are responsible for it's cleanliness and presentation. The Magistrate imposed a one time fine of \$250 and \$50 in fees to the contractor. She also gave the violators 5 days to comply or face a \$50 per diem fine.

aa. City of Marco Island vs. WSA Marco Development and Alan & Carlos Concrete of Naples Inc. – Case # 20-2277 – 771 Pelican Ct. Marco Island, FL 34145 – Silt Fence

Testifying for the city, Community Service Officer Doug Andrews stated that he issued a notice of violation for a silt fence across two properties, 771 and 765 Pelican Ct. on October 17th, 2020. He stated that upon reinspection, the contractors had come into compliance and surpassed expectations, putting up a silt fence along the roadway as well, which was not required. The magistrate imposed a fine of 50 dollars and 50 dollars in fees.

bb. City of Marco Island vs. WSA Marco Development and Alan & Carlos Concrete of Naples Inc. – Case # 20-2278 – 765 Pelican Ct. Marco Island, FL 34145 – Silt Fence

Testifying for the city, Community Service Officer Doug Andrews stated that he issued a notice of violation for a silt fence across two properties, 771 and 765 Pelican Ct. on October 17th, 2020. He stated that upon reinspection, the contractors had come into compliance and surpassed expectations, putting up a silt fence along the roadway as well, which was not required. The magistrate imposed a fine of 50 dollars and 50 dollars in fees and costs.

cc. City of Marco Island vs. Jerrold & Sherry Housfeld and Collier Seawall and Dock – Case # 20-2027 – 529 Spinnaker Dr. Marco Island, FL 34145 – Silt fence & Construction Site Litter

Testifying for the city, Community Service Officer Ira Warder spoke, stating that he issued a notice of violation for a silt fence/erosion control and litter and debris on 10/3/2020. He showed photos and documents from the case file, and stated that he re-inspected the property as complaint on 11/15/2020. Community Service Officer Keith Richter then stated that he had spoken with the contactor of the property, Brian Gilmore. Gilmore then spoke, stating that he has "been working with the city" is attempting to prevent future violations. He also attempted to justify his violations. The Magistrate imposed a one-time fine of \$10 and no fees and costs.

dd. City of Marco Island vs. Horizon USA Realty Corp – Case # 20-0698 – 166 Bermuda Rd. Marco Island, FL 34145 – Silt Fence

Testifying for the city, Community Service Officer John Kovacs stated that he issued a notice of violation at the specified property for silt fence/erosion control on 5/12/2020. He showed photos of the violation and documents from the case file. He stated that he re-inspected the property on 5/18/2020 and determined that it had been brought into compliance. The magistrate imposed a fine of 250 dollars and 50 dollars in fees.

ee. City of Marco Island vs. Lou Dotti & American Design Engineering Construction Inc. – Case # 20-2336 – 1942 San Marco Rd. Marco Island, FL 34145 – Erosion Control

Testifying for the city, Community Service Officer John Kovacs stated that he issued a notice of violation at the specified property on 9/15/2020 for erosion control. Photos and documents from the case file were submitted. He also determined that the property was found to be in compliance as of 11/16/2020. The Magistrate imposed a one-time fine of 50 dollars and 50 dollars in fees and costs only to the contractor.

ff. City of Marco Island vs. Ross Tackett Custom Homes Inc. and Toby LLC & Robo of Florida LLC – Case # 20-2004 – 1779 Piedmont Ct. Marco Island, FL 34145 – Silt Fence, Public Nuisance, Construction Site Litter & Weeds

Testifying for the city, Community Service Officer Ira Warder stated that he issued a notice of violation on 9/12/2020 for a silt fence, public nuisance, and construction site litter and weeds. He stated that a very dangerous violation occurred, as a rebar was left uncapped on the property. He showed photos of the violations and presented the documents in the case file. He stated that he re-inspected the lot on the 15th and that it was in compliance. Ross Tackett then spoke, owner of Ross Tackett Custom Homes, and stated that while they did commit the violation it was fixed very quickly. The Magistrate imposed a fine of \$500 for the repeat silt fence violation, \$250 for the uncapped rebar, \$50 for weeds, and \$50 for litter. She also gave 50 dollars in fees and costs. All of this went to the contractor only.

gg. City of Marco Island vs. D R Place LLC – Case # 20-2276 – 468 Tarpon CT. Marco Island, FL 34145 - Multiple Violations

Testifying on behalf of the city, Community Service Officer Joe Dodd explained the facts of the case, stating that he issued a notice of violation at the specified property on 9/14/2020 for an abandoned vehicle, abandoned property, debris, right of way obstruction, and a failed seawall. Community Service Officer Keith Richter also noted that an active demolition permit was issued at the property on October 9th. Upon re-inspection of the property on 9/21/2020, he noted that the vehicle missing the registration was removed as well as the debris. Everything else has still not been complied with. The magistrate imposed a fine of \$50 for the abandoned vehicle, \$250 for the right of way obstruction with 10 days to correct or 100 dollars per diem, \$250 for the failed seawall with 100 days to correct or 150 dollars per diem, \$250 for the litter and debris with 10 days to correct or 100 dollars per diem.

hh. City of Marco Island vs. 824 Buttonwood LLC – Case # 20-2273 – 824 Buttonwood Ct. Marco Island, FL 34145 – Signage & Storage

Testifying on behalf of the city, Community Service Officer Joe Dodd stated that he issued a notice of violation for signage and home occupation conditions at the property on 9/14/2020. He showed photos and presented the case file documents. He stated that he re-inspected the property this morning (11/17/2020) and found that the signs were removed, but the other violation was still not in compliance because the barge was still there. The property owner spoke in his own defense, followed by the owner of the pontoon boat (tenant of the property). She explained the situation and her business with the boat. She stated that she has several County occupational licenses. The MIPD Captain Baer then stated that she was still in violation of the ordinance and there was a rebuttal by the tenant. The magistrate ultimately decided to impose a fine of \$100 for each violation as well as fees and costs in the amount of 50 dollars, totaling 250 dollars. She also imposed a per diem fine of \$200 if the respondents do not comply immediately.

ii. City of Marco Island vs. William & Sandra Lewis and Cougar Cutting Inc – Case # 20-1890 – 219 Geranium Ct. Marco Island, FL 34145 – Work Without a Permit

Testifying on behalf of the city, Community Service Officer Ira Warder stated that he issued a notice of violation for work without a permit at the specified property on September 17th, 2020. He also stated that he had obtained a permit since the incident occurred. The homeowner then testified, confirming that information. The Magistrate imposed a one-time fine of \$250 and fees and costs in the amount of \$50.

- jj. City of Marco Island vs. Whitley S. & Brenda R, William & Sandra Ward, and Cougar Cutting Inc – Case # 20-2011 – 225 Geranium Ct. Marco Island, FL 34145 – Staging Without a Permit & Erosion Control

This case is tied with case #20-1890, also to be heard at this hearing. Testifying on behalf of the city, Community Service Officer Ira Warder spoke, stating that he and supervisor Keith Richter observed several violations at the specified property on September 17th, 2020. These included staging without a permit. He stated that he re-inspected the property on both the 15th and 16th of November, and that it was still not in compliance. The owners had no fault in this case, and the contractors who committed the violation didn't have permission to be on their property. The owner of 219 Geranium Ct., William Lewis then testified, stating that he did bring the property back into compliance, and said he needed 2 weeks to get the lot sodded. The Magistrate imposed a one-time fine of \$250 and fees in the amount of 50 dollars. She gave the violators 30 days to restore the lot to its pre-staging condition, and imposed a per diem fine of 100 dollars if they do not comply by then.

- kk. City of Marco Island vs. Harry & Joyce Bussey Jr. and Collier Seawall & Dock – Case # 20-1694 – 1573 Buccaneer Ct. Marco Island, FL 34145 – Staging Without a Permit

Testifying on behalf of the city, Community Service Officer Ira Warder stated that he issued a notice of violation for staging without a permit at the property on 8/21/2020, and gave the violators a compliance date of 8/31/2020 to clean up the property. He showed photos and documents from the case file. He then stated that on November 15th he re-inspected the property and found it to be in compliance. Brian Gilmore of Collier Seawall & Dock then testified, taking full responsibility for the violation. The magistrate imposed a fine of \$500 to the contractor only and assessed fees and costs in the amount of 50 dollars.

- ll. City of Marco Island vs. O S & M F Segarra Rev. Trust and Southern Comfort Air LLC – Case # 20-1665 – 483 Nassau Ct. Marco Island, FL 34145 – Work Without a Permit

Continued.

(2) Certification Order

(3) Mitigation of Fines Request

- nn. City of Marco Island vs. Kel Cee Properties - Case #18-0263 - 1426 Firwood Ct. Marco Island, FL 34145 - Mitigation of Fines Request

The conditional mitigation of fines offer was approved & granted by the Magistrate.

(4) Adjourn