City Council Minutes

Chairman: William D. Trotter
City Council: Ted Forcht, Jerry Gibson, Chuck Kiester, Robert J. Popoff, Frank R. Recker, Wayne Waldack

Regular Meeting – December 1, 2008 – 5:30 p.m.

Chairman Trotter called the meeting to order and presided.

ROLL CALL

All Councilors present.

Also Present: Steven T. Thompson, City Manager
Alan Gabriel, City Attorney
Bob Creighton, Interim Finance Director
Rony Joel, Public Works Director
Dave Baer, Police Captain
Michael Murphy, Fire Chief
Steve Olmsted, Community Development Director
Bryan Milk, Parks and Recreation Director
Lisa Douglass, Public Information Manager
Laura Litzan, City Clerk
Other interested citizens and visitors

INVOCATION AND PLEDGE OF ALLEGIANCE

Reverend Dr. E. Neil Hunt provided the invocation and led the pledge of allegiance.

APPROVAL OF AGENDA

MOTION by Councilor Forcht to approve the agenda, amended to defer Item 7(E) to a future meeting, item 7(G) to the January 5, 2009 meeting, move Item 4(B) to follow 7(C), and remove Items 4(A), 4(C), 4(D) and 4(E) from the Consent Agenda to the first item(s) of business. Second by Councilor Kiester. MOTION CARRIED UNANIMOUSLY 7-0.
APPROVAL OF CONSENT AGENDA

(Ed. Note: All consent agenda items were removed from the Consent Agenda and appear under the business section of the agenda.)

PRESENTATIONS

(A) Employee of the Month, December 2008

This item was deferred to the next meeting.

(B) Veterans Park Festivals.

Parks & Recreation Director Bryan Milk presented an overview of upcoming special events scheduled to be held at Veterans’ Community Park.

(C) New South Plant Water Storage Tank.

Public Works Director Rony Joel provided an update to Council on a new water storage tank proposed for the South Water Plant.

CITY COUNCIL COMMUNICATION AND DISCUSSION (15-minute limit)

Chairman Trotter requested that Councilors refrain from making motions during this section of the meeting because the public has not been notified that Council may take action on an item because it did not appear on the agenda. Instead, he requested that Councilors ask that the item be added for discussion to the next agenda during “Future Agenda.”

MOTION by Vice-Chair Recker to form an ad hoc Forensic Audit Committee and appoint a member of Council as the non-voting chair. Second by Councilor Kiester. MOTION CARRIED UNANIMOUSLY 7-0.

MOTION by Councilor Kiester to reconsider Council’s prior action of November 3, 2008 to award a contract to RSM McGladrey to perform a forensic audit of the Collier Boulevard Rebuilding Program. Second by Vice-Chairman Recker. MOTION CARRIED UNANIMOUSLY 7-0.

MOTION by Vice-Chairman Recker to direct the City Manager to cancel the contract with RSM McGladrey. MOTION FAILED FOR LACK OF SECOND.
MOTION by Councilor Popoff to direct the City Manager to send a letter to RSM McGladrey stopping the work authorized and request that they appear at the January 5, 2009 City Council meeting. Second by Councilor Forcht. MOTION CARRIED 6-1. Councilor Wayne Waldack opposed.

BUSINESS

4(A) Council Minutes for November 3, 2008 (Regular Meeting).

Councilor Kiester requested corrections to the minutes on page one (second is missing), page two (second is missing), and page nine (to read “no transparency.”)

MOTION by Councilor Popoff to approve minutes as corrected. Second by Councilor Kiester. MOTION CARRIED UNANIMOUSLY 7-0.

4(C) Award of Contract – Water Plant Standby Generator.

(Editorial History: Public bids were opened for the new generator on November 4, 2008. The request for bids was advertised on October 5, 2008 and October 12, 2008.)

MOTION by Councilor Popoff to award the North Water Treatment Plant 1.5 Megawatt Generator Project to Technical Management Associates, Inc. for a cost of $895,000 and authorize the City Manager to execute the contract documents. Second by Councilor Kiester. MOTION CARRIED 6-1. Councilor Forcht opposed.

4(D) Award of Contract – Construction of San Marco Road Overlay Project.

(Editorial History: The project was advertised on September 25, 2008 and bids were opened October 28, 2008.)

MOTION by Councilor Waldack to authorize the Award of Contract to APAC Southeast, Inc. for the construction of the San Marco Road Overlay Project for a not to exceed amount of $159,929.04 and authorize the City Manager to execute the contract. Second by Chairman Trotter. MOTION CARRIED 4-3. Councilor Forcht, Councilor Kiester, and Councilor Popoff opposed.

4(E) RESOLUTION – Application for Community Development Block Grant for Construction of Sidewalks – Marco Highlands Subdivision.
City Manager Steve Thompson read, by title only, the Resolution relating to the Application for the Community Development Block Grant for Construction of Sidewalks for the Marco Highlands Subdivision.

**MOTION** by Councilor Kiester to authorize the City Manager to submit an application for Community Development Block Grant funds to Collier County for the continued construction of sidewalks within the Marco Highlands Subdivision. Second by Councilor Popoff. **MOTION CARRIED UNANIMOUSLY 7-0.**

Recess: 7:12 p.m. to 7:26 p.m. It is noted for the record that the same Councilors were present when the meeting reconvened.

(A) **ORDINANCE – Second Reading & Public Hearing – Landscape Contractor Education and Registration Program.**

(Edited History: At the October 20, 2008 Council meeting, City Council approved on first reading an ordinance requiring certification of landscape contractors conducting business in the City of Marco Island.)

City Manager Steve Thompson read, by title only, the proposed Ordinance Establishing Lawn and Landscape Maintenance Regulations.

Public Comment


Mr. Alan Brown, 1290 Lily Court, spoke in favor of the ordinance.

Mr. Albert Benarroch, 847 Rose Court, spoke in favor of the ordinance.

Ms. Nancy Richie, City of Marco Island Environmental Specialist, spoke in support of the ordinance.

**MOTION** by Councilor Popoff to adopt on second reading the Ordinance Establishing Lawn and Landscape Maintenance Regulations. Second by Councilor Waldack. **MOTION CARRIED 6-1. Councilor Forcht opposed.**

(B) **ORDINANCE – Second Reading & Public Hearing – Capital Improvements Element Amendment to Comprehensive Plan.**

(Edited History: Council approved this item on first reading at the November 3, 2008 meeting. The Planning Board considered the proposed amendments at a public hearing on October 23, 2008 and voted to recommend approval by a vote of 3 to 2 with two members absent.)
City Manager Steve Thompson read, by title only, the Ordinance amending the City’s Comprehensive Plan to incorporate the approved schedule of capital improvements for the years 2009-2013. There was no public comment.

**MOTION** by Councilor Waldack to adopt on Second Reading the Ordinance amending the City’s Comprehensive Plan to incorporate the approved schedule of capital improvements for the years 2009-2013. Second by Councilor Popoff. **MOTION CARRIED UNANIMOUSLY 7-0.**

(C) **ORDINANCE – Second Reading & Public Hearing – School Concurrency Amendment to Comprehensive Plan.**

(***Editorial History:** City Council approved the proposed amendments on First Reading on February 2, 2008. The proposed amendments were subsequently transmitted to the Florida Department of Community Affairs and other required review agencies.)

City Manager Steve Thompson read, by title only, the Ordinance to adopt the proposed Comprehensive Plan amendments necessary to provide for school concurrency. There was no public comment.

**MOTION** by Councilor Kiester to adopt the proposed Comprehensive Plan amendments on Second Reading and authorize the City Manager to submit the adopted amendment to the Florida Department of Community Affairs and other required agencies. Second by Councilor Popoff. **MOTION CARRIED UNANIMOUSLY 7-0.**

4(B) **Interlocal Agreement for Public School Facility Planning.**

(***Editorial History:** On February 18, 2003, City Council entered into an Interlocal Agreement for Public School Facilities Planning with the District School Board of Collier County. The agreement with the School District is a joint agreement which also includes the City of Naples and Everglades City. The existing agreement is proposed to be modified as necessary to address School Concurrency Requirements established by the Florida Legislature.)

City Manager Steve Thompson read, by title only, the Resolution amending the Interlocal Agreement for Public School Facility Planning.

**MOTION** by Councilor Popoff to approve the Resolution amending the Interlocal Agreement for Public School Facility Planning. Second by Councilor Forcht. **MOTION CARRIED UNANIMOUSLY 7-0.**

(D) **ORDINANCE – First Reading – An Ordinance to Amend Chapter 54, Boat Docking Facilities.**

(***Editorial History:** This issue was discussed on May 19, 2008, and referred to the Waterways Committee and Planning Board for discussion of proposed
amendments to Chapter 54, Article IV, “Boat Docking Facilities.” The Waterway Committee actively participated in discussion and review of the recommended changes with staff and the Planning Board, and many Committee members routinely attended Planning Board meetings to evaluate and discuss navigation and mooring practices.)

City Manager Steve Thompson read, by title only, the Ordinance to Amend Chapter 54, Boat Docking Facilities. There was no public comment.

City Planner Bryan Milk reviewed the proposed amendments to the Boat Dock Ordinance and responded to Council’s questions.

**MOTION** by Councilor Popoff to adopt on First Reading the Ordinance amending Chapter 54, “Boat Docking Facilities,” as proposed. Second by Councilor Gibson. **MOTION CARRIED UNANIMOUSLY 7-0.**

(E) **DISCUSSION – Electric Municipalization Study Consultant Selection.**

(Editorial History: City Council directed staff to undertake a study to determine the feasibility to reduce electric utility rates through the municipalization of the electric system. A volunteer citizen’s ad hoc advisory committee was established to assist staff with the study.)

This item was deferred to a future meeting.

(F) **DISCUSSION – Appointments to Ad Hoc Financial Planning Committee.**

(Editorial History: City Council has created an Ad Hoc Financial Planning Committee to assist the City Council with the development of key imperatives and priorities. The Committee is to be composed of seven residents (one selected by each Councilor) with financial management expertise plus staff liaison and a Councilor as the non-voting chair.)

**MOTION** by Councilor Gibson to nominate Mr. Tom Kirstin to serve on the Ad Hoc Financial Planning Committee. Second by Councilor Popoff. **MOTION CARRIED UNANIMOUSLY 7-0.**

**MOTION** by Councilor Kiester to nominate Dr. Jim Riviere to serve on the Ad Hoc Financial Planning Committee. Second by Councilor Popoff. **MOTION CARRIED UNANIMOUSLY 7-0.**

**MOTION** by Councilor Forcht to nominate Mr. Al Musico to serve on the Ad Hoc Financial Planning Committee. Second by Councilor Popoff. **MOTION CARRIED UNANIMOUSLY 7-0.**
MOTION by Vice-Chairman Recker to nominate Mr. Steven Stefanides to serve on the Ad Hoc Financial Planning Committee. Second by Councilor Popoff. MOTION CARRIED UNANIMOUSLY 7-0.

MOTION by Councilor Waldack to nominate Mr. Monte Lazarus to serve on the Ad Hoc Financial Planning Committee. Second by Councilor Popoff. MOTION CARRIED UNANIMOUSLY 7-0.

MOTION by Councilor Popoff to nominate Mr. Patrick Neale to serve on the Ad Hoc Financial Planning Committee. Second by Vice-Chair Recker. MOTION CARRIED UNANIMOUSLY 7-0.

MOTION by Chairman Trotter to nominate Mr. Larry Magel to serve on the Ad Hoc Financial Planning Committee. Second by Vice-Chairman Recker. MOTION CARRIED UNANIMOUSLY 7-0.

(G) DISCUSSION – Award of Contract for Construction – Septic Tank Replacement Program Year 4 – Kendall & Mackle Park Sewer Districts.

(Editorial History: City Council has established the two assessment areas, and the construction has been bid with construction beginning in 2009. Bids were received on November 6, 2008, and the request for bids stated that selection by City Council would be based on the best value to the City.)

This item was deferred to the January 5, 2009 meeting.

(H) DISCUSSION – LCEC Bald Eagle Drive Easement.

(Editorial History: LCEC has agreed to provide $750,000.00 in exchange for the easement with the City with the understanding that the money would be used for the installation of sidewalks along Bald Eagle Drive.)

MOTION by Councilor Popoff to authorize the Chairman to execute an easement to LCEC in exchange for $750,000.00 to be used for sidewalk improvements, and any other necessary documents to implement City Council’s action. Second by Councilor Waldack. MOTION CARRIED UNANIMOUSLY 7-0.

(I) DISCUSSION – Award of Contract for Architectural Design Services for Utility Operations Building.

(Editorial History: Currently different divisions within the Public Works Department are scattered and housed in temporary offices and trailers due to the lack of available office space. Staff has been working with Astorino Architecture and Design to create a central Utility Operations building.)
Public Comment

Mr. Bill McMullan, 1250 North Collier Boulevard, questioned where the funds are coming from to pay for the plans.

Dr. Fay Biles, 1588 Heights Court, would like to know the entire cost for the project.

Mr. Larry Magel, 2000 Royal Marco Way, confirmed that detailed plans will be provided.

Ms. Linda McCune, 1596 Shores Court, questioned what the financial condition of the utility is currently.

Mr. Amadeo Petricca, 331 Regatta Street, commented on the ad hoc Utility Rate Study Committee, of which he is a member.

Mr. James Santori, Jr. with Astorino Architecture and Design advised that this is the first time in five years that costs are not escalating.

**MOTION** by Councilor Kiester to table this item until the January 5, 2009 meeting. Second by Councilor Popoff. **MOTION CARRIED UNANIMOUSLY 7-0.**

Recess: 9:17 p.m. to 9:35 p.m. It is noted for the record that the same Councilors were present when the meeting reconvened.

**MOTION by Councilor Forcht to extend the meeting past 9:30 p.m. Second by Chairman Trotter. MOTION CARRIED: 6-1. Councilor Popoff opposed.**

(J) DISCUSSION – Approval of Modified Agreement with Dr. Andrew Guidry.

(Editorial History: This is an Amendment to the Letter of Agreement of February 2, 2005, to include payment for the additional cost of insurance to Dr. Guidry for the use of the site for public parking.)

Public Comment

Ms. A.K. Battaglia, 39 North Collier Boulevard, spoke in support of approving the agreement.

Mr. Sal Sciarrino, 911 Montego Court, spoke in opposition to approving the agreement.
**MOTION** by Councilor Popoff to approve the five-year lease agreement between the City of Marco Island and Dr. Andrew Guidry that allows the public unlimited use and access of the parking area owned by Dr. Guidry for an annual payment of $3,897.00. Second by Councilor Forcht. **MOTION CARRIED 4-3. Councilor Gibson, Councilor Waldack, and Chairman Trotter opposed.**

**COMMUNITY FORUM**

Mr. Tom Meesu, Smokehouse Bay Club, complained about noise from amplified music and parking problems.

Ms. Toni Westphal, 665 Dorando Court, complained about noise from the Esplanade.

Mr. Charles Murray, 1620 Begonia Court, suggests that police and code enforcement monitor the situation at the Esplanade.

Mr. Denis Davin, 688 Elkcam Circle West, questioned why the original approval of the Esplanade did not allow amplified music.

A gentleman residing at Smokehouse Bay Club commented about decibel meters and the parking problem at the Esplanade.

Mr. Amadeo Petricca, 331 Regatta Street, advised that he reviewed the budgets from 2004 and only one balanced.

Mr. Bill McMullan, 1250 North Collier Boulevard, requested that the financial condition of the city be reviewed.

Ms. A.K. Battaglia, 39 North Collier Boulevard, commented that Mackle Park is not open on Thanksgiving and suggested making a port-a-let available when the park is closed and after hours.

**COUNCIL / CITY MANAGER COMMUNICATIONS AND DISCUSSION**

Vice-Chair Recker requested adding discussion about an Ad Hoc Charter Review Committee on the next agenda.

Councilor Waldack updated Council on some of the workshops and seminars he has attended.

Councilor Waldack called attention to the breakdown of charges now appearing on the water bills.
Councilor Forcht questioned the status on a dog park.

Councilor Forcht inquired whether funds are available for canal dredging.

Vice-Chair Recker updated Council on setting a meeting date to review the City’s ride-along policy. The City Manager reported that all ride-alongs have been suspended at this time, pending further review.

ADJOURN

There being no further business to come before City Council, the meeting adjourned at 10:40 p.m.

William D. Trotter, Council Chair
Date: ____________________________

ATTEST:

Laura Litzan, City Clerk
Date: ____________________________

PREPARED BY:

Debbie McCabe, Secretary
Date: ____________________________