

ORDINANCE 07-04

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA; REPEALING ORDINANCE 06-02 IN ITS ENTIRETY; AMENDING SECTION 2-121 OF THE CODE OF ORDINANCES FOR THE CITY OF MARCO ISLAND, FLORIDA TO PROVIDE FOR APPOINTMENT OF A CITY CLERK BY THE CITY MANAGER, AND TO PROVIDE CERTAIN EX-OFFICIO DUTIES OF THE CITY CLERK; AMENDING SECTION 22-54 TO PROVIDE FOR SERVICE BY THE CITY CLERK OR DESIGNEE ON THE BOARD OF TRUSTEES OF THE FIREFIGHTERS' PENSION PLAN; AMENDING SECTION 32-46 TO PROVIDE FOR SERVICE BY THE CITY CLERK OR DESIGNEE ON THE BOARD OF TRUSTEES OF THE POLICE OFFICERS' PENSION PLAN; PROVIDING FOR INCORPORATION, CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Marco Island adopted the City of Marco Island Firefighters Pension Plan and the City of Marco Island Police Officers' Pension Plan pursuant to Chapter 175 and Chapter 185, Florida Statutes, respectively; and

WHEREAS, the City of Marco Island adopted Ordinance 06-02, requiring the resident members of the Board of Trustees of the Police Officers' Pension Plan to also serve on the Board of Trustees of the Firefighters' Pension Plan; and

WHEREAS, The Division of Retirement has determined that service of the same residents on both pension Boards of Trustees is contrary to the requirements of Chapters 175 and 185; and

WHEREAS, the City Council of the City of Marco Island has determined that it would be in the best interest of the citizens of the City of Marco Island and the best interest of the Firefighters' Pension Plan and the Police Officers' Pension Plan to require the City Clerk or a designee thereof, to serve on both pension boards; and

WHEREAS, the electors of the City of Marco Island approved an amendment to the City Charter granting the city manager the authority to appoint a city clerk, on September 10, 2002.

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

Sec. 1. Ordinance Number 06-02 is hereby repealed in its entirety.

Sec. 2. Section 2-121, "Office established; duties", of the Code of Ordinances of the City of Marco Island is amended to read as follows:

Sec. 2-121. Office established; duties.

The city manager shall appoint a city clerk who shall be responsible for the following:

- (1) Provide public notice of all public meetings to city council and the public.
- (2) Keep a journal of all city council proceedings, which shall be a public record.
- (3) Be custodian of all official records.
- (4) Supervise city elections, initiatives, and referendums.
- (5) Provide access to public records as required by article 1, section 24, of the state constitution and F.S. ch. 119, as amended.
- (6) Serve as a member of the Board of Trustees of the City of Marco Island Firefighters' Pension Plan and the Board of Trustees of the City of Marco Island Police Officers' Pension Plan, if eligible.

Sec. 3. Section 22-54, "Board of Trustees", of the Code of Ordinances of the City of Marco Island is amended to read as follows:

Sec. 22-54. Board of trustees.

* * *

(b) The board of trustees shall consist of five persons. Two trustees, unless otherwise prohibited by law, shall be legal residents of the city, who shall be appointed by the city council, one of whom shall be the city clerk, or if the city clerk is not a legal resident of the city, a designee who is a legal resident of the city. Two trustees shall be full-time firefighter members of the pension plan, who shall be elected by a majority of the firefighters who are members of the pension plan. The fifth trustee shall be chosen by a majority of the previous four trustees as provided for herein, and such person's name shall be submitted to the city council. Upon receipt of the fifth person's name, the city council shall, as a ministerial duty, appoint such person to the board of trustees. The fifth trustee shall have the same rights as each of the other four trustees appointed or elected as herein provided, and shall serve a two-year term, unless the office is sooner vacated, and may succeed himself in office. Each resident trustee shall serve as trustee for a period of two years, unless sooner replaced by the city council at whose pleasure the trustee shall serve, and may succeed himself as a trustee. Each firefighter trustee shall serve as trustee for a period of two years, unless he sooner leaves the employment of the city as a firefighter or otherwise vacates his office as trustee, whereupon a successor shall be chosen in the same manner as the departing trustee. Each firefighter trustee may succeed himself in office. The board of trustees shall meet at least quarterly each year.

Sec. 4. Section 32-46, “Board of Trustees”, of the Code of Ordinances of the City of Marco Island is amended to read as follows:

Sec. 32-46. Board of trustees.

(1) The sole and exclusive administration of and responsibility for the proper operation of the plan and for making effective the provisions of this chapter is hereby vested in a board of trustees. The board shall consist of five trustees; Two trustees, unless otherwise prohibited by law, shall be legal residents of the city, who shall be appointed by the city council, one of whom shall be the city clerk, or if the city clerk is not a legal resident of the city, a designee who is a legal resident of the city. Two trustees shall be members of the plan, who shall be elected by a majority of the police officers who are members of the plan. The fifth trustee shall be chosen by a majority of the four trustees approved and elected as provided for herein, and such person's name shall be submitted to the city council. Upon receipt of the fifth person's name, the city council shall, as a ministerial duty, appoint such person to the board of trustees as its fifth trustee. The fifth trustee shall have the same rights as each of the other four trustees appointed or elected as herein provided, and shall serve a two-year term unless the trustee sooner vacates the office. Each resident trustee shall serve as trustee for a period of two years, unless the trustee sooner vacates the office or is sooner replaced by the city council at whose pleasure said trustee shall serve. Each member trustee shall serve as trustee for a period of two years, unless the trustee sooner leaves the employment of the city as a police officer or otherwise vacates the office of trustee, whereupon a successor shall be chosen in the same manner as the departing trustee. Each trustee may succeed himself or herself in office. In order to establish staggered terms for the appointed and elected trustees, the term for one elected and one appointed trustee shall be shortened to one year for one term only. All future terms of those and all other trustees shall be two years thereafter, as provided above. The board shall establish and administer the nominating and election procedures for each election. The board shall meet at least quarterly each year. The board shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

Sec. 5. Incorporation, Conflict, and Severability.

(a) It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Marco Island, Florida, and that the sections of this Ordinance may be renumbered or re-lettered and that the word “ordinance” may be changed to “section”, “article” or other appropriate word.

(b) All sections or parts of sections of the Marco Island City Code of Ordinances, all City of Marco Island resolutions or parts of resolutions made applicable by City Charter in conflict herewith are hereby repealed to the extent of such conflict.

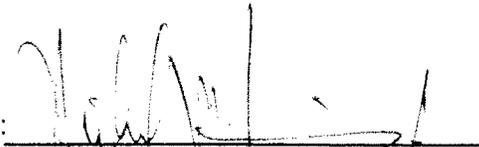
(c) If any word, phrase, clause, subsection or section of this Ordinance is for any reason held unconstitutional or invalid by any court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

Sec. 6. Effective Date.

This Ordinance shall take effect immediately upon adoption.

ADOPTED THIS 4th DAY OF June, 2007.

CITY OF MARCO ISLAND, FLORIDA

BY: 
Michael F. Minozzi, Jr., Chairman

Attest:


Laura Litzan
City Clerk

Approved as to form and
legal sufficiency:


Richard Yovanovich
City Attorney