

RESOLUTION NO. 05-54

A RESOLUTION OF THE CITY COUNCIL OF MARCO ISLAND, FLORIDA, RELATING TO THE CONSTRUCTION AND FUNDING OF WASTEWATER IMPROVEMENTS; RATIFYING AND CONFIRMING THE INITIAL ASSESSMENT RESOLUTION; DETERMINING THAT CERTAIN REAL PROPERTY WILL BE SPECIALLY BENEFITED BY THE WASTEWATER IMPROVEMENTS; ESTABLISHING THE METHOD OF ASSESSING THE COSTS OF THE IMPROVEMENTS AGAINST THE REAL PROPERTY THAT WILL BE SPECIALLY BENEFITED THEREBY; ESTABLISHING OTHER TERMS AND CONDITIONS OF THE ASSESSMENTS; APPROVING THE ASSESSMENT ROLL; PROVIDING THE METHOD OF COLLECTION; DIRECTING THE PROVISION OF NOTICE IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY. This Resolution of the City of Marco Island, Florida (the "City") is adopted pursuant to City Ordinance No. 99-1 (as amended from time to time and codified in the City Code in Sections 2-281 through 2-379, the "Assessment Ordinance"), City Resolution No. 05-38 (the "Initial Assessment Resolution"), Chapter 197, Florida Statutes, and other applicable provisions of law.

SECTION 2. DEFINITIONS. This Resolution is the Final Assessment Resolution. All capitalized terms in this Resolution shall have the meanings defined in the Assessment Ordinance and the Initial Assessment Resolution.

SECTION 3. FINDINGS. It is hereby ascertained, determined and declared that:

(A) The findings provided in Section 1.03 of the Initial Assessment Resolution are hereby ratified, confirmed, and incorporated as if set forth fully herein.

(B) On June 20, 2005, the Council adopted the Initial Assessment Resolution, proposing the construction and funding of the Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements, describing the method of assessing the cost of such improvements against the real property that will be specifically benefited thereby, establishing a public hearing to consider imposition of the proposed assessments, and directing preparation of the preliminary Assessment Roll and provision of the notices required by the Assessment Ordinance.

(C) Pursuant to Section 2-326 of the Assessment Ordinance, the Council is required to repeal or confirm the Initial Assessment Resolution, with such amendments as the Council deems appropriate, after hearing concerns and receiving comments or objections of interested parties.

(D) The Assessment Roll has heretofore been filed at the offices of the City Clerk, 50 Bald Eagle Drive, Marco Island, Florida, and made available for public inspection.

(E) As required by the terms of the Initial Assessment Resolution, notice of a public hearing has been published and mailed to each property owner proposed to be assessed notifying such property owner of the opportunity to be heard; the proof of publication and an affidavit of mailing are attached hereto as Appendices A and B respectively.

(F) A public hearing has been duly held and comments and objections of all interested persons have been heard and considered as required by law.

(G) The Assessments imposed pursuant to this Resolution will be imposed by the Council, not the Property Appraiser or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of this Resolution shall be construed solely as ministerial.

(H) The benefits derived from the Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements exceed the cost of the Assessments levied and imposed hereunder. The Assessment for any Tax Parcel within the South Barfield Assessment Area does not exceed the proportional benefits that such Tax Parcel will receive compared to any other Tax Parcel within such area.

(I) The Council hereby finds and determines that the Assessments to be imposed in accordance with this Resolution provide an equitable method of funding the Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements by fairly and reasonably allocating the cost to specially benefited property.

SECTION 4. RATIFICATION AND CONFIRMATION OF PRIOR ACTIONS AND INITIAL ASSESSMENT RESOLUTION. Except as may be modified or amended herein, all actions taken by the Council at its meetings commenced on June 20, 2005 and August 1, 2005 are hereby ratified and confirmed. The Initial Assessment Resolution, as supplemented by this Resolution, is hereby ratified and confirmed.

SECTION 5. APPROVAL OF ASSESSMENT ROLL. The Assessment Roll, which is on file with the City Clerk, is hereby approved.

SECTION 6. ASSESSMENTS.

(A) The Tax Parcels located within the South Barfield Assessment Area and described in the Assessment Roll are hereby found to be specially benefited by construction of the Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements based upon an estimated Capital Cost for each ERC of \$11,842 for Wastewater Collection Improvements and \$6,298 for Wastewater Treatment Capacity Improvements, and an estimated Project Cost for each ERC of \$12,552

wastewater Collection Improvements and \$6,676 for Wastewater Treatment Capacity Improvements.

(B) Affected property owners shall have the option of prepaying this combined principal Capital Cost amount before the issuance of Obligations. If the total amount is not prepaid, a non-ad valorem assessment will be imposed pursuant to the Assessment Ordinance and Section 197.3632, Florida Statutes. This will permit the Project Cost to be amortized over a period of twenty (20) years.

(C) The methodology for determining ERCs described in Section 3.03 of the Initial Assessment Resolution is hereby approved and adopted. A special assessment computed in the manner described in the Initial Assessment Resolution is hereby levied and imposed on all Tax Parcels described in the Assessment Roll in order to finance and collect Assessments for Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements, and unless prepaid, shall be collected by a series of non-ad valorem assessments over a period of twenty (20) years. It is anticipated that collection under the Uniform Assessment Act shall commence with the ad valorem tax bill to be mailed in November 2006.

(D) Following adoption of this Final Assessment Resolution but prior to the date on which the Assessment Roll is certified for collection, the City Manager and City Attorney are directed and authorized to promptly institute proceedings pursuant to Chapter 75, Florida Statutes, for validation of any Obligations secured by the

Assessments. The imposition and collection of Assessments as provided herein shall be contingent upon the validation of any such Obligations and the appeal period having expired without an appeal having been taken and/or appeal having been resolved in favor of the City. Any Obligations issued by the City shall contain a covenant by the City to adopt an Annual Assessment Resolution imposing Assessments for each Fiscal Year until the Obligations have been paid in full.

(E) Upon adoption of the Annual Assessment Resolution for each Fiscal Year, the Assessments shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, City or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected upon validation of the Obligations and adoption by the Council of the Annual Assessment Resolution and shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes.

SECTION 7. COLLECTION OF ASSESSMENTS. The Assessments shall be collected pursuant to the provisions of the Initial Assessment Resolution and Uniform Assessment Collection Act. Upon adoption of the Annual Assessment Resolution for each Fiscal Year, the City Manager shall cause the certification and delivery of the Assessment Roll to the Tax Collector by September 15, in the manner prescribed by the Uniform Assessment Collection Act.

SECTION 8. EFFECT OF FINAL ASSESSMENT RESOLUTION. The

adoption of this Final Assessment Resolution shall be the final adjudication of the issues presented herein and in the Initial Assessment Resolution (including, but not limited to, method by which the Assessments will be computed, the Assessment Roll, the maximum annual Assessment, the levy and lien of the Assessments and the terms for prepayment of the Assessments), unless proper steps are initiated in a court of competent jurisdiction to secure relief within twenty (20) days from the date of City Council's adoption of this Final Assessment Resolution.

SECTION 9. ASSESSMENT NOTICE. Upon validation and issuance

of the Obligations, the City Manager is hereby directed to record a general notice of the Assessments in the Official Records in the office of the Collier County Clerk of Courts. Such notice shall be in substantially the form attached hereto as Appendix C. The preliminary Assessment Roll and each annual Assessment Roll shall be retained by the City Manager and shall be available for public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Assessment for each Tax Parcel can be determined by use of a computer terminal or internet access available to the public.

SECTION 10. EFFECTIVE DATE. This Resolution shall take effect

immediately upon its adoption.

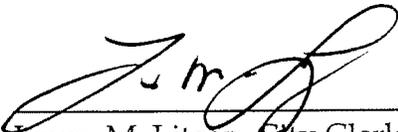
DULY ADOPTED this 1st day of August 2005.

CITY COUNCIL OF MARCO ISLAND,
FLORIDA

By: 
Vicki Kelber, Chairwoman

(SEAL)

ATTEST:


Laura M. Litzan, City Clerk

Approved as to Form:


Richard D. Yovanovich, City Attorney

APPENDIX A

PROOF OF PUBLICATION

Affidavit of Publication

State of Florida
County of Collier

Before the undersigned they serve as the authority, personally appeared E. Lamb, who on oath says that they serve as the Assistant Corporate Secretary of the Naples Daily News, a daily newspaper published at Naples, in Collier County, Florida; distributed in Collier and Lee counties of Florida; that the attached copy of the advertising, being a

PUBLIC NOTICE

in the matter of Public Notice
as published in said newspaper 1

time(s) in the issue on July 12th, 2005

Affiant further says that the said Naples Daily News is a newspaper published at Naples, in said Collier County, Florida, and that the said newspaper has heretofore been continuously published in said Collier County, Florida; distributed in Collier and Lee counties of Florida, each day and has been entered as second class mail matter at the post office in Naples, in said Collier County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

[Signature]
(Signature of affiant)

Sworn to and subscribed before me
This 12th, July 2005

[Signature]
(Signature of notary public)



Harriett Bushong
MY COMMISSION # DD234689 EXPIRES
JULY 24, 2007
POWERED THROUGH TROY FARM INSURANCE, INC

NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF NON-AD VALOREM ASSESSMENTS IN THE SOUTH BARFIELD ASSESSMENT AREA

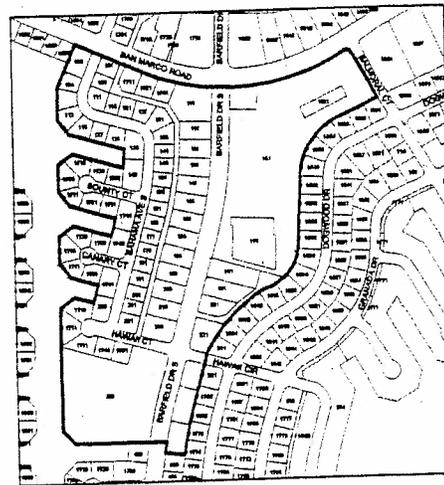
Notice is hereby given that the City of Marco Island will conduct a public hearing to consider the collection of special assessments within the South Barfield Assessment Area, as shown above through the imposition of non-ad valorem assessments for the construction of wastewater collection and wastewater treatment capacity improvements. The hearing will be held at 6 p.m. on August 1, 2005, at Frank Mackle Community Park, 1361 Andalusia Terrace, Marco Island, Florida, for the purpose of receiving public comment on the proposed assessment area, special assessments and improvements. All affected property owners have a right to appear at the hearing and to file written objections with the City Council within twenty (20) days of this notice. If a person decides to appeal any decision made by the City Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Clerk at 50 Bald Eagle Drive, Marco Island Florida, at least forty-eight (48) hours prior to the date of the hearing.

The assessment for each parcel of property will be based upon the total number of equivalent residential connections on each improved tax parcel on the date the assessment is imposed. A more specific description of the improvements and the method of computing the assessment for each parcel of property are set forth in the Initial Assessment Resolution adopted by the City Council on June 20, 2005. Copies of the Initial Assessment Resolution and the preliminary Assessment Roll are available for inspection at the office of the City Clerk.

Commencing in November 2006, the assessments are anticipated to be collected on the ad valorem tax bill, as authorized by Section 197.3632, Florida Statutes. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title. Failing prepayment of the applicable special assessments, the City Council intends to collect the assessments in twenty (20) annual installments.

If you have any questions, please contact the City Clerk at (239) 389-5000.

CITY COUNCIL OF MARCO ISLAND,
FLORIDA



S. BARFIELD
COMMERCIAL
SEWER DISTRICT



APPENDIX B

AFFIDAVIT OF MAILING

AFFIDAVIT OF MAILING

BEFORE ME, the undersigned authority, personally appeared the undersigned affiants, who after being duly sworn depose and say:

1. I, A. William Moss, as City Manager of the City of Marco Island, Florida ("City"), pursuant to the authority and direction received from the City Council, have timely directed the preparation and mailing of notices by Ennead, LLC in accordance with Section 2.05 of City Resolution No. 05-38 (the "Initial Assessment Resolution") and Section 2-325 of the Code of Ordinances of the City of Marco Island, Florida (the "Assessment Ordinance").

2. Camilla A. Augustine is Project Director of Ennead, LLC ("Ennead"). Ennead has caused the notices required by the Assessment Ordinance and the Initial Assessment Resolution to be prepared in conformance with the Assessment Ordinance. An exemplary form of such notice is attached hereto.

3. On or before July 8, 2005, Ennead mailed the above referenced notices in accordance with the Assessment Ordinance and the Initial Assessment Resolution by First Class Mail, to each owner of real property located within the South Barfield Assessment Area (as defined in the Initial Assessment Resolution), as reflected on, and at the addresses then shown on, the real property assessment tax roll database maintained by the Collier County Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

property assessment tax roll database maintained by the Collier County Property
Appraiser for the purpose of the levy and collection of ad valorem taxes.

[Remainder of page intentionally left blank.]

FURTHER AFFIANT SAYETH NAUGHT.

A. William Moss

A. William Moss, affiant

Camilla A. Augustine

Camilla A. Augustine, affiant

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 26th day of July 2005, by A. William Moss as City Manager for the City of Marco Island, Florida. He is personally known to me or has produced _____ as identification and did take an oath.



BARBARA A. LAWRENCE
MY COMMISSION # DD 202668
EXPIRES: July 29, 2007
Bonded Thru Budget Notary Services

Barbara A. Lawrence

Printed/Typed Name: _____

(SEAL)

Notary Public-State of _____

Commission Expires: _____

STATE OF FLORIDA
COUNTY OF Florida

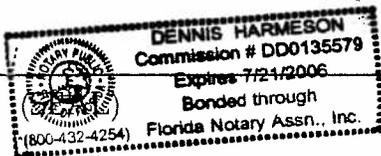
The foregoing Affidavit of Mailing was sworn to and subscribed before me this 15th day of July 2005, by Camilla A. Augustine. She is personally known to me or has produced FL DL as identification and did take an oath.

[Signature]

Printed/Typed Name: Florida

Notary Public-State of Florida

Commission Expires: 7/21/06



DENNIS HARMESON
Commission # DD0135579
Expires 7/21/2006
Bonded through
Florida Notary Assn., Inc.
(800-432-4254)

APPENDIX C

FORM OF ASSESSMENT NOTICE

NOTICE OF ASSESSMENTS FOR WASTEWATER IMPROVEMENTS

On August 1, 2005, the City Council of Marco Island, Florida, adopted Resolution No. [2005__-____], which levied and imposed special assessments against property located within the South Barfield Assessment Area, described in Exhibit A attached hereto, to collect non-ad valorem assessments for Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements in an initial principal Capital Cost amount of [\$ amount] per ERC necessary to finance a portion of the wastewater improvements being constructed within the City. Resolution No. [200__-____] provided for the levy and imposition of such non-ad valorem assessments upon validation and issuance of obligations secured by the assessments. This notice has been filed upon validation and issuance of obligations secured by the assessments pursuant to Chapter 75, Florida Statutes. A list of the affected tax parcel numbers and property owners (as shown on the Collier County ad valorem tax assessment roll as of the effective date of Resolution No. [200__-____]) and the number of ERCs attributable to each parcel is available by contacting the City Manager at [address] or at [phone #]. Assessments will commence with the ad valorem tax bill to be mailed in November 2006. The method of computing the annual assessment for any parcel of property to which the Property Appraiser has assigned a distinct ad valorem property tax identification number is set forth in Resolution No. [200__-____]. The assessment roll, which identifies the number of ERCs attributable to each parcel of property is on file with the City Manager and is

open to public inspection. [Additional information can be obtained on the internet at www.[City Name].gov.] Exclusive of collection costs and any amount allowed by law as the maximum discount for early payment of ad valorem taxes and non-ad valorem assessments, Resolution No. [200__-____] established a maximum annual assessment each year for a maximum of twenty (20) years.

This notice is recorded to provide constructive notice of the levy and imposition of non-ad valorem assessments to landowners of property located within the South Barfield Assessment Area.

The Council will adopt an annual assessment resolution for each fiscal year. Upon adoption of each annual assessment resolution, assessments shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, City or municipal taxes and other non-ad valorem assessments. The lien shall be deemed perfected upon adoption of each annual assessment resolution and shall attach to the property included on the assessment roll as of the prior January 1, the lien date for ad valorem taxes. This notice does not and shall not be construed to require that individual liens or releases be filed in the Official Records.

CITY COUNCIL OF MARCO ISLAND,
FLORIDA

By: _____
Vicki Kelber, Chairwoman

(SEAL)

ATTEST:

Laura M. Litzan, City Clerk

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me by Vickie Kelber as Chairwoman of the City Council of Marco Island, Florida, who is personally known to me or has produced _____ as identification and who did/did not take an oath, this ____ day of August 2005.

(SEAL)

Printed/Typed Name: _____
Notary Public-State of _____
Commission Expires: _____

CITY OF MARCO ISLAND, FLORIDA

**SOUTH BARFIELD ASSESSMENT AREA
FINAL ASSESSMENT RESOLUTION**

Adopted August 1, 2005

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