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# MICA WAVE

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*A Periodic Publication of the Marco Island Civic Association.*  
News and Reviews of What's Really Happening on Marco Island.

*Read by Over 20,000 Members.*

November, 2005

Visit our web site: [www.marcocivic.com](http://www.marcocivic.com)

2005 Issue 3

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## Protecting Our Most Valuable Asset!

*by Jacqueline J. Buyze, Attorney at Law  
from the Law Firm 'Grant, Fridkin, Pearson, Athan & Crown'  
Legal Counsel to the Marco Island Civic Association*

Coastal and inland waterways are an important economic asset of the City of Marco Island (and the State of Florida), that must be protected. Our waterways are utilized by our residents, visitors, and businesses. It is, therefore, incumbent upon the City to manage, protect and preserve these valuable assets for the use and enjoyment of the public. To protect our valuable assets, your local government, like many other municipalities throughout Florida, has proposed restrictions on boat anchoring within the public waters of the City.

Local governments derive authority to regulate boat anchoring under both state and federal law, including but not limited to the Constitution of the State of Florida and Statutes of the State of Florida. This authority, however, is not without limitation. Local regulations and restrictions

must be in furtherance of the public health, safety and welfare, and must not violate the constitutional protections afforded to the public for the use of and access to said lands. Further, the regulatory power of the municipality is inferior to the proprietary authority of the lawful owners of the submerged land. In Florida, submerged lands are held in the public trust by the Board of Trustees of the Internal Improvement Trust Fund. Hence, the sovereign State, through its Board of Trustees, retains continuing supervisory control over navigable waters of Florida and the lands beneath those waters. Any regulation or restriction that is preempted by the State, or is inconsistent with general law or with regulations adopted by the State, will be invalid.

Marco Island property owners have expressed concern about the regulation of our

waterways, the extended anchoring of vessels in waterways adjacent to residential areas, the related issues of privacy and visual intrusion in residential areas, the potential for noise generated by vessel equipment and occupants, the illegal discharge of sewerage and other hazardous substances, and the potential for derelict and abandoned vessels. The proposed Ordinance addresses these concerns by, *inter alia*, making it unlawful to moor a live-aboard vessel within the City, or, with a few enumerated exceptions, to moor any occupied vessel continuously for more than 72 hours.

Numerous communities throughout the State of Florida have adopted similar ordinances. Some communities prohibit anchoring altogether, while others merely limit the time of anchoring. Courts have found

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# President's Letter

*by James Arnold*

The summer heat, many hurricane threats and actual Hurricane Wilma are, thankfully, behind us on Marco Island, and another "season" is heading our way. Clean up of Hurricane Wilma is underway to make your island once again beautiful. On pages 4 & 5 you will see pictures taken at Residents' Beach the day after Hurricane Wilma.

The major event of our summer season, MICA's July

Fourth Celebration at Residents' Beach, was a huge success with many happy members and lots of red, white, and blue seen in the crowd, as evidenced by the photos on pages 20 & 21. I'd like to extend my appreciation to the many volunteers and employees who helped make the event a true celebration of our nation's birth.

In this issue you will be brought up to date on various issues including the Residents' Beach Pavilion, the proposed

Waterways Ordinance, your newest recycling tool, the history and present day situation at the Marco Healthcare Center, as well as many other exciting topics swirling around Marco Island.

Watch your mailbox for a date & time... MICA will be hosting an informational meeting regarding sewers and septic systems in January 2006.

Sit back and enjoy this latest issue of the MICAWAVE!

## Red Hot Boat Anchoring Issue Survey to Go to Membership

*by Lynn Bradeen*

MICA members will be receiving a survey to determine what the majority feels should be the length of time transient boaters should be allowed to anchor in Marco Island waters.

It appears at this time that the anchoring period will be somewhere between three and 15 days. Federal, state and local laws affect this situation and the MICA Board of Directors has enlisted professional help from MICA's law firm "Grant, Fridkin, Pearson, Athan &

Crown." Mr. Fridkin has had discussions with City officials and is reviewing various laws concerning this situation. A survey will soon be compiled and mailed to MICA members. The results will be made available to the Marco Island City Council and published in the MICAWAVE.

Members are urged to read the cover article and attend City meetings when the item is on the agenda.

*"Protecting our most Valuable Assets" ...continued from page 1*

that ordinances such as these serve the health, safety, and general welfare of the public, and do not conflict with state or federal law. For this reason, the ordinances repeatedly survive constitutional challenges, and are held to be valid and enforceable.

*Editor's Note: The City of Marco Island Waterways Committee has recommended to the Marco Island City Council that anchoring be limited to three days with a permit required. With proof of sewerage pump out, e.g. receipt, an additional three day permit may be obtained. It appears the Marco Island City Council will review this issue in January.*

# Residents' Beach Funds Return Home!

After touring the Residents' Beach and surveying the damage wrought by Hurricane Wilma, the Marco Island Residents' Beach Association (MIRBA) voted unanimously to release all funds to MICA to begin immediate repairs.

As you may remember, prior to September 1, 1994, the Residents' Beach was managed by MIRBA under contract with MICA. Upon expiration of that contract, MICA took over operation of the Residents' Beach properties, and MIRBA retained the funds they had previously collected from members. MIRBA's bylaws state that the funds may be expended when catastrophic weather or emergency



conditions exist at the Residents' Beach. Unfortunately, that time has come.

On pages 4 and 5 you will

see pictures taken the day after Hurricane Wilma blew through the Residents' Beach on Marco Island.

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# Wicked Wilma Whips



# Residents' Beach



# Wellness Series Comes to Marco

MICA, jointly with the YMCA and City of Marco Island, will host a series of wellness lectures at Mackle Park this season.

This outstanding series entitled, Healthy Life Lecture Series, will be presented by physicians from Cleveland Clinic - Naples. The topics

include injury prevention and sports medicine, preventing arthritis and the latest in joint replacements, nutrition and obesity, screening for skin cancer and skin cancer prevention and other topics. Mark your calendar for the dates.

All sessions will be held at Mackle Park at 7 P.M. Topics

are still being finalized so watch the local papers for more information.

Refreshments will be served and door prizes will be given. The lectures are free through the generosity of Cleveland Clinic and the support of the sponsoring organizations.

**Thursday, December 15**

**Thursday, January 19**

**Tuesday, February 28**

**Wednesday, March 22**

**Thursday, April 13**

**Sleep Disorders**

**Prevention and Treatment of Sports Injuries**

**Nutrition and Healthy Lifestyles**

**Skin Cancer Screening**

**A Healthy Heart**

## New Fitness Classes Offered at Mackle Park

*By Kathy Sullivan*

When NCH closed the Wellness Program at the Sarazen Center, the Wellness Program classes found themselves without a home. The City of Marco Island Department of Parks and Recreation came to the rescue and agreed to offer the programs at Mackle Park. Starting October 3rd classes will be offered designed for people in good health over 50 who want to feel better, look better and minimize the effects of aging. The program, *Be Fit Over Fifty™*, consist of two classes:

**Tone Sculpt-** The Tone & Sculpt program is a 45 minute class

that combines safe and effective stretching & strengthening routines designed to firm, tone and strengthen all major muscle groups. This class is offered Monday, Wednesday and Friday at 7:30 AM and again at 8:45 AM.

**Cardio Strengthening-** The 30 minute cardio strengthening program includes a stretch warm-up, 20 minutes of low impact, easy to follow aerobic movements, and a stretch cool-down. This class is designed to strengthen your heart & lungs, help you to reduce body fat and manage your weight. This class is offered Monday, Wednesday

and Friday at 8:15 AM.

The instructor, Susan Branco, a member of the National Council on Aging, the National Osteoporosis Foundation, and the American Senior Fitness Association, is an accomplished certified fitness professional recognized for her work in the field of senior fitness. The \$40 per month fee entitles participants to attend either or both classes. There is no initiation fee.

For more information call 642-1666 or go to Mackle Park to enroll.

# Urgent Care, Urgent Need

*by Ed d'Alessandro*

Last week, I found myself at the True Value parking lot at 2 a.m. assisting a man who was being driven to the Marco Healthcare Center with a snake bite on his right hand. The driver discovered that the center was closed from the 911 operator and was instructed to pull over and stand by for assistance. Today, I attended the Marco Island Police Foundation luncheon where a Police Officer was given an award for responding to a home and finding a person who was “acting funny”. The officer requested EMS who arrived promptly to assist the person. The person refused to be transported to the hospital; however, the officer spent a little extra time with the person and convinced her to go with him to Marco Healthcare Center. Once there and under the care of a doctor, the woman was found to be having a stroke and was transported to NCH. The actions of the officer and doctor may have saved the life or at least the lifestyle of the woman. Job well done. We need Urgent Care 24 hours a day, 7 days a week, 365 days per year.

As many of you know, the Marco Healthcare Center no

longer provides 24 hour walk-in medical service to the island’s residents and guests. Without warning or public announcement, the center reduced its hours to 12 hours daily. The Marco Healthcare Center is operated by Naples Community Hospital (NCH), which is a non-profit corporation. I would like to take this opportunity to discuss the origin of the Marco Healthcare Center and the financial beginnings of the building and land.

The Mackle Brothers realized that Marco Island needed a hospital to ensure the safety of its residents and guests. In 1978, the Deltona Corporation set aside a piece of land which was to be used for the construction of a hospital. In 1980, Deltona gave the parcel of land to Collier County for the development of a hospital under the following restrictions: 1) that the land would be used as a hospital for the overnight stay of 1 or more human patients and 2) that the hospital would provide care for the sick and injured. The deed restriction also contained a reverter clause, much like the one on Residents’ Beach, which would return the property if it

was misused.

In 1981, Collier County turned the land over to NCH with the same restrictions. At NCH’s request, the reverter clause was removed in 1983 by the Collier County Commissioners.

An additional piece of the puzzle to consider is the initial funding for the construction of the Urgent Care Center, as it was known then. The funds for the development, construction and original equipment at Urgent Care were provided by voluntary donations, the majority of which was provided by Marco Island residents. In addition, each and every year Marco Healthcare Center requests financial support from Marco Island residents.

In 1993, the MICA Board of Directors agreed to change the deed restrictions on the Urgent Care site to include an assisted living facility to be operated by NCH in conjunction with the Urgent Care Center. A few years after the deed restriction change, NCH decided they wanted to turn the management of the assisted living facility over to a for-profit corporation. During this time, NCH

*continued on page 19*

# The Progress of the Robert Sessions Pavilion



June, 2005



October 6, 2005



October 26, 2005