

1. Requested Motion:

Meeting Date:

Adopt Ordinance 09-06 establishing the Bay Oaks Recreational Campus Advisory Board.

November 2, 2009

Why the action is necessary:

The County has had a long-standing committee for the Bay Oaks facility. With the County's transfer of this facility to the Town, the County is sunsetting its advisory committee. The Town Council has directed that a Town Advisory Committee be created for this campus.

What the action accomplishes:

This fulfills Town Council's direction to create an advisory committee to assist it with decisions regarding the Bay Oaks Recreational Facility.

2. Agenda:

3. Requirement/Purpose:

4. Submitter of Information:

Consent
 Administrative

Resolution
 Ordinance
 Other:

Council
 Department:
 Town Attorney

5. Background:

Attached is draft Ordinance 09-06 to create the Bay Oaks Recreational Campus Advisory Board, for Council review and determination. The Mission Statement set out in the draft Ordinance was provided by Denny Weimer, Chair of the Ad Hoc BORC Committee, as a consensus statement.

This ordinance contains provisions which mirror other Town advisory committees, except that the Interim Town Manager has requested that (a) the membership not be limited to Town residents only, thereby allowing two (2) of the proposed seven (7) members to be from off-Island; and (b) the prohibition against membership on multiple Town committees be removed. The draft ordinance reflects both of these requests, for further Council review and direction.

Attachments: Draft Ordinance 09-06; Town Attorney Memo of 10/22/09

6. Alternative Action: Unknown.

7. Management Recommendations:

8. Recommended Approval:

| Finance Director | Public Works Director | Comm. Development Director | Town Clerk | Town Attorney | Town Manager |
|------------------|-----------------------|----------------------------|------------|---------------|---|
| | | | | AD |  |

9. Council Action:

Approved Denied Deferred Other

Anne Dalton, Esquire
2044 Bayside Parkway
Fort Myers, Florida 33901
(239) 337-7900

Memorandum

To: Mayor, Vice Mayor, Town Councilmembers
CC: Town Manager, Town Clerk
Date: October 22, 2009
Subject: Bay Oaks Recreational Campus Advisory Board/Ordinance 09-06

Per Town Council direction, attached is a copy of the proposed BORC-AB ordinance for hearing on November 2, 2009.

Please note that Section 5(D) has been modified to provide the following options for Council consideration:

1. Membership on this committee **will/will not** render a person ineligible for membership on any other advisory committee for the Town during term of office. If Council wishes to continue this ineligibility provision, it might be advisable to address ad hoc committees, either in this ordinance or at the time that the ad hoc committee is established by Council.
2. All members of the committee must be residents of the Town **OR** two members of the committee may be non-residents and the remaining members must be residents.
 - Note: If it is the will of Council to have two non-residents, the committee will still have a majority of Town residents.

Other ministerial changes were made to accommodate the fact that the earliest Council meeting for committee appointments would be November 16, and that packet materials are due to the Clerk by noon on November 6 to enable packet distribution a week before the meeting, per prior Council directive. The draft Ordinance currently states that the application deadline is November 6, which is only four (4) days after the proposed date of passage of the Ordinance. If Council wishes a longer lead time for application, the appointment date will be pushed into December, 2009.

Please advise as to questions. Thank you.

Town of Fort Myers Beach
ORDINANCE NO. 09-06
BAY OAKS RECREATION CAMPUS ADVISORY BOARD

AN ORDINANCE ESTABLISHING THE FORT MYERS BEACH BAY OAKS RECREATIONAL CAMPUS ADVISORY BOARD, PROVIDING AUTHORITY, COMPOSITION AND APPOINTMENT; QUALIFICATIONS OF MEMBERS; PURPOSE AND SCOPE; MEMBERS TERMS AND VACANCIES; FORFEITURE OF OFFICE; COMPENSATION OF MEMBERS; ELECTION AND DUTIES OF OFFICERS; SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Constitution of the State of Florida and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the measures set forth in this Ordinance are necessary to provide for the protection of public health, safety and welfare of the citizens of the Town; and

WHEREAS, the Town acquired the real property and related structures and personalty, collectively known as Bay Oaks Recreation Campus from Lee County, as of September 30, 2009; and

WHEREAS, the Town Council desires to have an advisory committee comprised of Town citizens **and others** to assist the Town Council with regard to matters involving the Bay Oaks Recreational Campus.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. Incorporation of WHEREAS Clauses.

The above "Whereas" clauses are hereby incorporated by reference as findings of fact to support this ordinance.

Section 2. Creation of Board.

A town advisory board to be known as the Town of Fort Myers Beach Bay Oaks Recreation Campus Advisory Board (BORC-AB) is hereby created.

Section 3. BORC Mission Statement

The BORC mission statement is as follows: the Bay Oaks Recreational Campus (BORC) serves the Town of Fort Myers Beach and surrounding area as a community center and recreational facility providing individuals and groups passive and active recreational, social and community activities and events for both residents and visitors. Programs offered will be well-rounded and developed to serve the varying needs of our youngest to oldest patrons in a safe healthy

environment. As a community center BORC is a key resource in bringing people together to develop their sense of community and common interests. The BORC park grounds, facilities and recreational offerings promote the development of group and individual health, fitness and personal advancement

Section 4. Purpose and Scope.

The purpose of BORC-AB is to facilitate the accomplishment of the BORC's mission statement and thereby to further the welfare of the citizens of the Town and others utilizing the Bay Oaks Recreation Campus and its facilities, as well as to provide advice to the Town Council upon request with regard to matters concerning the BORC and perform such other duties as the Town Council may, from time to time, assign to it.

Section 5. Composition, Appointment, Term of Office.

- A. There shall be no less than five (5) members and no more than seven (7) members of BORC-AB. A quorum shall consist of a majority plus one person of the total number of persons appointed by Council for this committee at any given time.
- B. Each member shall serve for a period of two (2) years or until a successor has been appointed and has qualified. However, in November, 2009 only, three (3) persons shall be initially appointed by Town Council for a one-year term, and four (4) persons shall be appointed for a two (2) year term, so as to create staggered terms of office. There shall be no restrictions on the number of terms for which an otherwise qualified BORC-AB member can be appointed to serve.
- C. The Town Council shall appoint members in October of each year, commencing in October, 2010. Anyone wishing to serve on this board must apply no later than September 1 of such year. However, for 2009 only, the deadline for application will be ~~October 31, 2009~~ November 6, 2009 and appointments will occur at the first available Town Council meeting thereafter. Each application will include a short biography and short explanation as to why the applicant wishes to serve on BORC-AB. Any vacancies in BORC-AB shall be filled by the Council within thirty (30) days of creation of such vacancy if possible, and shall be for the remainder of the term created by such vacancy.
- D. Membership on the BORC-AB **shall/shall not** render a person ineligible for membership on any other advisory committee for the Town of Fort Myers Beach during his/her term of office. One spouse per household will be eligible for membership on the BORC-AB during any given term of office. No current member of Town Council shall be eligible to serve on this committee. **[Two (2) members may reside outside the municipal boundaries of the Town and all remaining members must be residents of the Town of Fort Myers Beach] OR [all member must be residents of the Town of Fort Myers Beach]** at the time of application for membership on this committee and during the period of service.
- E. The members of BORC-AB shall elect a chair and vice-chair at the November meeting each year, except that for 2009 only, such election shall occur at the first meeting of BORC-AB following initial member appointments by Town Council. The

Chair shall preside over all meetings and sign all minutes. The Vice-Chair shall preside in the absence of the Chair.

- F. BORC-AB shall meet at least every other month, with the initial meeting to be held within thirty (30) days of the initial member appointments by Town Council, It commencing in November, 2009 and may meet more frequently as determined by a majority of its members or by the Chair. It shall adopt a Policies and Procedures Manual for the transaction of business and minutes of all meetings will be kept.

Section 6. Forfeiture of Office

Any BORC-AB member shall forfeit office if the member:

- A. Lacks at any time during the term of office any qualification for the office as prescribed by Town ordinance or state law; or
- B. Violates any standard of conduct or code of ethics established by law for public officials; or
- C. Is absent from three (3) consecutive regular BORC-AB meetings without being excused at such meeting by a majority of other members.

Section 7. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application will be deemed a separate, distinct and independent provision and such holding will not affect the validity of the remaining portion or application hereof.

Section 8. Effective Date. This Ordinance will be effective immediately upon adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member _____ and seconded by _____ and, upon being put to a vote, the result was as follows:

| | | | |
|--------------------|-------|------------------------|-------|
| Larry Kiker, Mayor | _____ | Herb Acken, Vice Mayor | _____ |
| Tom Babcock | _____ | Jo List | _____ |
| Bob Raymond | _____ | | |

DULY PASSED AND ENACTED by the Council of the Town of Fort Myers Beach, Florida, this _____th day of November, 2009.

ATTEST: _____ TOWN OF FORT MYERS BEACH

BY: _____
Michelle D. Mayher, Town Clerk Larry Kiker, Mayor

Approved as to legal sufficiency by:

Anne Dalton, Esquire, Town Attorney