

**1. Requested Motion:**

**Meeting Date:** 11/2/09

Adopt Resolution 09-25-U, approving a by-law amendment to change the date of the annual corporate meeting and grant General Manager the authority to call corporate meetings.

Why the action is necessary:

The action simplifies calling of the annual meeting and special meetings for the corporation.

What the action accomplishes:

This action simplifies corporate procedures.

**2. Agenda:**

- Consent
- Administrative
- Appeal

**3. Requirement/Purpose:**

- Resolution
- Ordinance
- Other:

**4. Submitter of Information:**

- Council
- Department:
- Corporate Attorney

**5. Background:**

The bylaws provide for an annual meeting in November in non-election years. This results in an annual meeting in November and a second annual meeting four (4) months later when there is a non-election year followed by an election year. In addition, the present by-laws provide that only the president or a majority of the board can call a special meeting. The proposed by-law changes (a) move the annual meeting to March or after the election (which generally would be March as well pursuant to the Charter requirements) and also (b) allow the general manager to call a meeting of the membership and/or directors as needed.

**6. Alternative Action:**

Do not modify the by-laws.

**7. Management Recommendations:**

**8. Recommended Approval:**

Finance Director	Public Works Director	Comm. Development Director	Town Clerk	Corporate Attorney	General Manager
					

**9. Council Action:**

- Approved
- Denied
- Deferred
- Other

RESOLUTION 09-25 - U

RESOLUTION OF THE TOWN OF FORT MYERS BEACH  
PUBLIC WORKS SERVICES, INC.  
A FLORIDA NOT FOR PROFIT CORPORATION  
AMENDMENT TO BY-LAWS

WHEREAS, the Town of Fort Myers Beach Public Works Services, Inc., Board of Directors has convened on November 2, 2009, following proper notice as required by its Articles of Incorporation, By-laws, and as further required by Florida Statute; and

WHEREAS, there was a proper quorum for transaction of corporate business at the aforesaid meeting; and

WHEREAS, the Articles of Incorporation state in Article IX that the by-laws of the Corporation shall be adopted and may be amended by the Board of Directors and the Corporate By-laws state in Article Six that the Bylaws may be amended, repealed, or added to, or new bylaws may be adopted by the vote of a majority of the board; and

WHEREAS, the Board of Directors has determined that it is in the best interest of the corporation to amend the by-laws to simplify the procedure for the annual meeting of the members and the annual meeting of the Board of Directors by moving it to the spring for election and non-election years alike; and

WHEREAS, the Board of Directors has further determined that it is in the best interest of the corporation to allow the General Manager the authority to call meetings when he/she deems this to be appropriate and therefore modifies the bylaws accordingly; and

WHEREAS, a vote was duly taken following proper discussion, in accordance with corporate procedures.

NOW, THEREFORE, be it Resolved as follows:

1. The By-laws which are attached hereto as Exhibit A and hereby incorporated by reference are hereby adopted as the official By-laws of the Town of Fort Myers Beach Public Works Services, Inc.
2. This Resolution shall take effect immediately.

The foregoing resolution was adopted by The Town of Fort Myers Beach Public Works Services, Inc. on November 2, 2009.

THE TOWN OF FORT MYERS BEACH PUBLIC WORKS SERVICES, INC.

\_\_\_\_\_  
\_\_\_\_\_, Secretary

Approved as to Legal Sufficiency:

Anne Dalton, Esquire, Corporate Attorney

Amended November 2, 2009

**BYLAWS OF THE TOWN OF FORT MYERS BEACH**  
**PUBLIC WORKS SERVICES, INC.**  
**A FLORIDA CORPORATION NOT FOR PROFIT**  
**AS AMENDED ON NOVEMBER 2, 2009**

Article One Offices

Section One, Principal Office. The principal office of this corporation in the State of Florida shall be located at 2523 Estero Boulevard, Fort Myers Beach, Florida.

Article Two Membership

Section One. Classes of Membership. The corporation shall have one class of members, and the rights and privileges of all members shall be equal. Each member shall be entitled to one vote.

Section Two. Qualifications. The incumbent members of the governing board of the Town of Fort Myers Beach Public Works Agency, are the members of this corporation.

Section Three. Property Rights. No member shall have any right, title, or interest in any of the property or assets, including any earnings or investment income of this corporation, nor shall any of the corporation's property or assets be distributed to any member on its dissolution or winding up.

Section Four. Liability of Members. No member of this corporation shall be personally liable for any of its debts, liabilities, or obligations, nor shall any member be subject to any assessment.

Section Five. Transfer and Termination. Membership in this corporation is nontransferable. Membership shall terminate upon loss of office on the governing board of the Town of Fort Myers Beach Public Works Agency. The replacement on the governing board of the Town of Fort Myers Beach Public Works Agency shall be the replacement of the member of the corporation.

Amended November 2, 2009

Article Three Meetings of Members

Section One. Annual Membership Meeting. Commencing with the Annual Meeting in ~~2010, 2006~~, the Annual Meeting of members shall be held immediately contiguous to ~~following the first regularly scheduled meeting of the Town Council subsequent to the Town's regular election. In non-election years, the Annual Meeting of members shall be held immediately following the first the second~~ regularly scheduled meeting of the Town Council in March. In election years, this meeting shall occur immediately following the first regularly scheduled meeting of the Town Council subsequent to the Town's regular election. November. The Annual Meeting shall be held at Town Hall, or at any other place or places designated by Resolution of the Board of Directors.

Section Two. Special Meetings. Special meetings of members may be called by the president, the General Manager, or the Board of Directors.

Article Four Directors

Section One. Number. The authorized number of directors of this corporation shall be five.

Section Two. Qualifications of Directors. Directors must be members of the governing board of the Town of Fort Myers Beach Public Works Agency. Any person's status of Director shall automatically terminate upon loss of his/her office on the governing board of the Town of Fort Myers Beach Public Works Agency. The new member of the governing board of the Town of Fort Myers Beach Public Works Agency shall be the new Director of this corporation.

Section Three. Powers. Except as otherwise provided in the articles of incorporation, or by law, the powers of this corporation shall be exercised, its properties controlled, and its affairs conducted by the board of directors, which may, however, delegate the performance of any duties or the exercise of any powers to agents designated by resolution of the board of directors.

Section Four. Compensation. No member of the board of directors shall receive compensation from the corporation.

Section Five. Liability of Directors. The directors of this corporation shall not be personally liable for its debts, liabilities, or other obligations.

Section Six. Annual Board of Directors Meeting. Commencing with the Annual Meeting ~~in 2006,~~ 2010, the Annual Meeting of the Board of Directors shall be held immediately following the Annual Membership Meeting each year. The Annual Meeting of the Board of Directors shall be held at Town Hall, or at any other place or places designated by resolution of the Board of Directors.

Section Seven.. Special Board of Directors Meetings. Special meetings of the Board of Directors may be called by the president, either as he/she deems necessary, or upon request of a majority of the board of directors, or by the General Manager.

#### Article Five Officers

Section One. Designation of Officers, the officers of the corporation shall be a president, one or more vice-presidents (as determined by the board of directors), a secretary, a treasurer and a General Manager. The General Manager shall not be a member.

Section Two. Election and Term of Office. The officers of this corporation shall be elected annually by the board of directors at the regular annual meeting of the board of directors. If the election of officers is not held at the annual meeting, an election shall be held as soon as may be convenient. New offices may be created and filled at any meeting of the board. Each officer shall hold office until his or her successor has been duly elected and has been qualified. A vacancy in any office, whether due to death, resignation, removal, disqualification, or otherwise, shall be filled by the Board of Directors for the unexpired portion of the term, at a meeting duly called for this purpose.

Section Three. President. The president shall be the chief executive officer of the corporation and shall preside at all meetings of members and of directors and perform any duties assigned by the board of directors.

Amended November 2, 2009

Section Four. Vice-President. In the absence of the president or in the event of the president's inability or refusal to act, the vice-presidents in the order of their election shall perform the duties of the president, and shall have all the powers of, and be subject to all the restrictions on, the president. Any vice-president shall perform additional duties assigned to him or her by the board of directors.

Section Five. Treasurer. The Treasurer shall perform any duties assigned by the board of directors.

Section Six. Secretary. The Secretary shall perform any duties assigned by the board of directors.

Section Seven. General Manager. The General Manager shall exercise general supervision and control over all activities of the corporation.

#### Article Six Amendments

Section One. Power of Directors to Amend Bylaws. The bylaws of this corporation may be amended, repealed, or added to, or new bylaws may be adopted by the vote of a majority of the board at a meeting duly called for the purpose according to the articles or bylaws.