

1. Requested Motion:

Meeting Date: November 16, 2009

Adopt Resolution No. 09-32, as modified at the hearing, approving the rate adjustment for the Public Works Services, Inc.

Why the action is necessary:

Ordinance 2001-03 requires Town Council to approve all adjustments to rates and fees of the Public Works Services, Inc.

What the action accomplishes:

The Resolution considers the petition for rate adjustment and sets all the system rates and charges within the water utility.

2. Agenda:

- Consent
- Administrative

3. Requirement/Purpose:

- Resolution
- Ordinance
- Other:

4. Submitter of Information:

- Council
- Town Staff: Public Works
- Town Attorney

5. Background:

The Public Works Services, Inc was presented with the water utility rate study report and AdHoc Committee report after which a public meeting was held to take action on both reports. PWSI adopted a Resolution 09-22U accepting both the rate study and AdHoc Committee report and approved the filing of a Petition for Rate Adjustment with Town Council in accordance with Ordinance 2001-03. Council set the public hearing on the rate adjustment petition for November 16, 2009. The Public Notice of the hearing was mailed to all water utility customers with the October, 2009 billing and noticed in the Fort Myers News Press on November 9, 2009. The staff report summarizes the reports and an evaluation associated with the rate study and Petition that have been provided to Council thus far and provides the specific items that PWSI is bringing forward for consideration at the hearing. The Town Attorney has provided a legal memorandum concerning the procedural requirements, findings and conclusions needed for action for the hearing. Also provided, is the recent analysis requested by the AdHoc Committee to consider billing consumption costs on multi-family properties based on unit instead of by meter size.

6. Alternative Action:

Provide alternate direction to staff.

7. Management Recommendations:

Approve a rate adjustment.

8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director	Town Clerk
<i>JMS</i>	<i>AD</i>		<i>C. Lewis</i>			

9. Council Action:

- Approved
- Denied
- Deferred
- Other

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 09-32

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH **APPROVING/DENYING** THE PETITION OF THE TOWN OF FORT MYERS BEACH PUBLIC WORKS SERVICES, INC. FOR AN ADJUSTMENT IN ALL RATES AND FEES CHARGED FOR WATER SERVICE WITHIN THE TOWN OF FORT MYERS BEACH, FLORIDA.

WHEREAS, Article VIII, Section 2 of the State Constitution 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, Town Ordinance 01-03 granted the Town of Fort Myers Beach Public Works Services, Inc. (PWSI) an exclusive right, privilege and franchise to construct, maintain, equip and operate a water supply and distribution system within the Town and to provide a water utility service within the Town's Service Area, as set forth more fully in Section Three (3) of said Ordinance (Franchise Ordinance); and

WHEREAS, Section 8 (a) of the Franchise Ordinance provides that water utility rates and charges, inclusive of connection and disconnection charges, impact fees, readiness-to-serve charges, demand charges, meter charges and the like, may be adjusted by PWSI as provided therein; and

WHEREAS, Section 8(b) of the Franchise Ordinance, as amended by Town Ordinance 08-06, provides that all requests by PWSI for rate and charge adjustments shall be filed with the Town Council in the form of a "Petition for Rate Adjustment," with supporting documentation, at least thirty days prior to the proposed effective date for the adjustment; and

WHEREAS, Section 8(c) of the Franchise Ordinance and Section 180.13(1), Florida Statutes, provides that the Town Council has the jurisdiction to review, consider and approve rates and charges prior to their implementation; and

WHEREAS, Section 8(e) of the Franchise Ordinance provides that the Town Council shall hold at least one public hearing after due public notice and prior to approval of any adjustments to rates and charges. Action shall be taken by the Town Council by resolution and shall constitute final agency action; and

WHEREAS, the measures set forth in Town Ordinance 01-03 and Town Ordinance 08-06 are necessary to provide for the protection of public health, safety, and welfare and to preserve the lives and property of the people of the Town; and

WHEREAS, PWSI filed a Petition for a Rate Adjustment and Related Relief with the Town on September 21, 2009, as permitted by Town Ordinance 01-03 (Petition); and

WHEREAS, following due and proper notice as required by Florida Statute and Town Ordinance, the Town Council held a public hearing on the Petition on November 16, 2009 at pm; and

WHEREAS, at said hearing, the Town Council reviewed the Petition, considered the testimony of all interested persons and the documents in the file; and

WHEREAS, pursuant to Section 180.13(2), Florida Statutes, the Town Council is required to

establish just and equitable rates and charges to be paid for the use of the municipal utility by each person, firm or corporation whose premises are served thereby.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA:

Section 1. Adoption of Recitals. The above recitals as set forth in the various "Whereas" clauses are hereby adopted and incorporated into the body of this Resolution.

Section 2. Goals and Objectives. The Town Council hereby declares its goals and objectives in granting this rate adjustment to PWSI are as follows:

- a. To establish rates that meet the projected expenditure requirements of the utility system in order to maintain sound financial operations, debt requirements and to fund the anticipated capital needs of the system; and
- b. To establish rates and charges which are just and equitable among customer classes; and
- c. To minimize "rate shock" to customers if possible; and
- d. To promote the conservation of utility resources; and
- e. To establish adequate reserves for emergencies and foreseeable and unforeseen capital needs.

Section 3. Approval of the Suggested Findings of Fact and Recommendations in the Water Rate and Charges Study. The Town Council finds that the suggested findings of fact and recommendations contained in the Water Rate and Charges Study dated July 3, 2009, as performed by the Florida Rural Water Association and attached to the PWSI Petition as Exhibit "B", **are/are not true and correct in all material terms and hereby approves and adopts/does not approve and adopt them**, except as modified in this Resolution.

~~Section 3. Approval of the Suggested Findings of Fact and Recommendations in the Staff Report The Town Council finds that the suggested findings of fact and recommendations contained in the Staff Report dated October _____, 2009, **are/are not true and correct in all material terms and hereby approves and adopts/does not approve and adopt them**, except as modified in this Resolution.~~

Section 4. Approval of Suggested Findings of Fact set forth in the Petition filed by Town of Fort Myers Beach Public Works Services, Inc. In addition to other findings of fact set forth elsewhere in this Resolution, the Town Council finds that the following statements of fact alleged in the Petition are true and correct:

- (a) If the adjustments to rates, charges and fees set forth elsewhere in this Resolution are not made, PWSI will remain out of compliance with its loan covenant; and
- (b) If the adjustments to rates, charges and fees set forth elsewhere in this Resolution are not made, PWSI will deplete its capital reserves within Fiscal Year 2009/2010. PWSI has previously been advised of the poor condition of the utility lines and other portions of the utility, and the Town Council finds that it is critical to retain as much of the capital reserves as possible for emergency repairs to the system; and
- (c) The adjustment to utility rates, charges and fees set forth elsewhere in this Resolution meets the projected expenditure requirements of the utility system in order to maintain sound financial operations and debt requirements and to fund the anticipated capital needs of the system; and

- (d) The adjustment to utility rates, charges, and fees set forth elsewhere in this Resolution will be equitable among customer classes, and such adjustments will promote the conservation of utility resources and maintain adequate reserves for emergencies and unforeseen capital expenditures.

Section 5. Determination of Request for Increase in Water Utility Rates, Fees and Charges. The Town Council of the Town of Fort Myers Beach hereby grants a rate increase to all rates, charges and fees, including but not limited to user fees, administration fees, trip charges, connection fees, tap fees, fire line service charges, creation of reserves for emergency and capital improvement purposes, and administrative fees (collectively "fees"). The increase is approved to include:

- (a) a twenty-three (23%) percent increase on the cost per one thousand (1,000) gallons, billed using a modified block rate schedule; and
 (b) a ten (10%) percent base rate increase in conjunction with a per-unit base rate charge for Multi-Family accounts; and
 (c) the amount of **FILL IN THE BLANK** added to the base rate charge to fund annual capital and emergency reserves of \$300,000; and
 (d) a twenty-three (23%) percent increase to all other system fees and charges as requested in the Petition. The Town Council finds that this increase is in the best interest of the Town utility customers and citizens

Section 6. Rates, Fees and Charges for Water Utility Service as of January 1, 2010. The rates, fees and charges for water utility service within the Town shall be as follows, effective January 1, 2010:

A. SYSTEM CONNECTION FEES

<u>CLASSIFICATION</u>	<u>No. ERU's</u>	<u>NEW CHARGE</u>
Residential Service		
Single-Family	1	\$ 1,254.60
Multi-Family (per Dwelling Unit)	1	\$ 1,003.60
Recreational Vehicle (per Dwelling Unit/Lot)	4	\$ 501.84
Commercial Service and All Non-Residential Services:		
<u>Meter Size</u>		
5/8"	1	\$ 1,254.60
3/4"	1.5	\$ 1,881.90
1"	2.5	\$ 3,136.50
1.5"	5	\$ 6,273.00
2"	8	\$ 10,036.80
3"	16	\$ 20,073.60
4"	25	\$ 31,364.00
6"	50	\$ 62,730.00
8"	80	\$100,368.00
10"	145	\$181,917.00

Exception: If a general service connection serves living units such as hotel, motel, or timeshare, etc., with efficiency units that include a kitchen or kitchenette and/or laundry facilities, the connection charge shall be the higher of the fee from the meter size schedule above or the number of dwelling units based on the multi-family ERU equivalent.

B. METER INSTALLATION FEES:

<u>Meter Size</u>	
5/8"	\$153.75, or actual cost, whichever is higher

3/4"	\$178.35, or actual cost, whichever is higher
1"	\$239.85, or actual cost, whichever is higher
1.5"	\$504.30, or actual cost, whichever is higher
2"	\$688.80, or actual cost, whichever is higher
3" and above	Actual Cost

In addition to new installations, the appropriate rate listed above may also apply to water service upgrades or facility relocations. Charges for larger meter taps shall be based on estimates of actual time and expense. Amounts collected in excess of actual costs shall be credited to the customer's account or refunded, as applicable. Amounts due, caused by underestimation, shall be billed and payable by the customer within (10) days.

C. TAP-IN CHARGES:

<u>Meter Size</u>	
5/8"	\$ 578.10, or actual cost, whichever is higher
3/4"	\$ 602.70, or actual cost, whichever is higher
1"	\$ 688.80, or actual cost, whichever is higher
1.5"	\$1,045.50 or actual cost, whichever is higher
2"	\$1,217.70 or actual cost, whichever is higher
3" and above	Actual Cost

In addition to new installations, the above rate may also apply to water service upgrades or facility relocations. Charges for larger meter taps shall be based on estimates of actual time and expense. Amounts collected in excess of actual costs shall be credited to the customer's account or refunded, as applicable. Amounts due, caused by underestimation, shall be billed and payable by the customer within (10) days.

D. PREMISE VISIT

(Trip Charge)	\$31.37
Weekend	\$45.90

Includes charges for meter re-reads and special reads, customer requested meter test, and any specific activities where a trip to the customer's premises is requested by the customer or as required by the Public Works Services, Inc. Upon written request of any customer, the Public Works Services, Inc. shall, without charge, make a field test for accuracy of the water meter in use at customer's premises, provided that meter has not been tested within the past twelve (12) months.

E. TURN-ON/TURN-OFF CHARGE

	During Normal Working Hours	After Normal Working Hours
Customer Request	\$43.05	\$55.35
Re-connection of Service (non-payment disconnection)	\$49.20	\$67.65

F. PLAN REVIEW FEES

One (1%) percent of the construction cost or \$664.20, whichever is higher.

G. FIRE SERVICE CHARGES

Meter Size
(Based on largest diameter meter installed for fire protection.) Yearly amount.

5/8"	\$ 2.34
3/4"	\$ 3.51
1"	\$ 4.85
1 1/2"	\$ 11.75
2"	\$ 18.76
3"	\$ 37.52
4"	\$ 58.61
6"	\$117.22
8"	\$187.58
10"	\$269.62

H. CUSTOMER DEPOSIT

Residential Service:

Single-Family	\$ 55.35
Multi-Family (per Dwelling Unit)	\$ 44.28
Recreational Vehicle (per Dwelling Unit/Lot)	\$ 30.75

Commercial Service and all Non-Residential Services:

Meter Size

5/8"	\$ 55.35
3/4"	\$ 82.41
1"	\$ 141.45
1.5"	\$ 276.75
2"	\$ 442.80
3"	\$ 885.60
4"	\$1,383.75
6"	\$2,767.50
8"	\$4,428.00
10"	\$8,028.75

The above deposit amounts are minimums. Additional deposit amounts may be required in order to secure payment of current bills and/or in an amount equal to the average of four months billing, whichever is higher.

I. WATER DELIVERED AND MEASURED BY METER AND MONTHLY BASE RATE:

Block Rate Gallons Charge/1,000 Gallons				
	Block 1	Block 2	Block 3	Block 4
	\$4.80	\$5.80	\$6.80	\$7.80
Customer Rate Blocks (Gallons)				
Customer Classification	Block 1	Block 2	Block 3	Block 4
Single Family Residential, Multi-Family Residential Per Unit	0 – 6,000	6,001 – 30,000	30,001 – 50,000	Above 50,000
Commercial, Irrigation, Non-Residential				
5/8"	0 - 8,000	8,001 – 30,000	30,001 – 60,000	Above 60,000
1"	0 – 9,000	9,001 – 40,000	40,001 – 60,000	Above 60,000
1 1/2"	0 – 12,000	12,001 – 45,000	45,001 – 65,000	Above 65,000
2"	0 – 15,000	15,001 – 50,000	50,001 – 70,000	Above 70,000

3"	0 – 50,000	50,001 – 100,000	100,001 - 400,000	Above 400,000
4"	0 – 60,000	60,001 – 300,000	300,001 – 500,000	Above 500,000
6"	0 – 70,000	70,001 – 400,000	400,001 – 600,000	Above 600,000
8"	0 – 90,000	90,001 – 500,000	500,001 – 700,000	Above 700,000
10"	0 – 150,000	150,001 – 600,000	600,001 – 800,000	Above 800,000

Monthly Base Rate		
Charge Code	Meter Size	Base Charge
Single Family Residential, Multi-Family Residential		
1, 12 - 17		\$9.54 per unit
Commercial		
2	5/8"	\$ 12.02
	3/4"	\$ 15.43
3	1"	\$ 22.25
4	1.5"	\$ 39.57
5	2"	\$ 59.76
6	3"	\$114.32
7	4"	\$175.70
	6"	\$346.20
	8"	\$550.80
	10"	\$994.10
Irrigation		
8	5/8"	\$12.02
9	1"	\$22.25
10	1.5"	\$39.57
11	2"	\$59.76

In addition, each residential, non-residential and commercial account will be charged a monthly administrative fee of \$2.77 and a late fee of 1% or six dollars and twenty five cents (\$6.25), whichever is the greater, if payment is not received by the due date.

SECTION 7. Automatic Annual Increase in Rates, Fees and Charges; Sunset Date; Town Council Review.

- (a) In addition to the increases set forth elsewhere in this Resolution, the Town Council grants PWSI's petition for an annual base rate increase, to be effective on January 1 of each year, commencing on January 1, 2011. Such automatic rate increase shall be in an amount determined by PWSI by application of the Florida Public Service Commission Price Index for Water and Wastewater Facilities (FPSCPI), but no less than ~~0%~~ 2% annually and no greater than 5% annually.
- (b) The automatic annual increases set forth in Paragraph 7 (a) immediately above shall sunset on December 31, 2012, unless Town Council takes other action prior to that date. Any increases prior to that date shall remain in full force and effect.
- (c) The Town Council shall have the ability each year to review and modify the amount of the automatic annual rate increase set forth in Paragraph 7(a) above, upon application of PWSI Board by May 1 of each year, commencing on May 1, 2010 and continuing for each year such automatic rate increase is in effect.

SECTION 8. Rates, Fees and Charges are Fair and Just. The Town Council finds that the rates, fees and charges which will take effect on January 1, 2010, as set forth elsewhere in this Resolution, are just and equitable rates and charges pursuant to the requirements of Section

180.13(2), Florida Statutes and accomplish the Town goals and objectives set forth in Section 2 above.

SECTION 9. Segregation of Capital Reserves Into Restricted Account. The Town Council hereby directs PWSI to segregate all funds collected for capital reserves in a separate and restricted account to be used solely for capital purposes and not for day-to-day water system operations and maintenance.

SECTION 10. Effective Date. This resolution shall be effective immediately; however, the rates and charges specified above shall take effect on January 1, 2010.

The foregoing Resolution was adopted by the Fort Myers Beach Town Council upon a motion by Councilmember _____ and a second by Councilmember _____, with the vote as follows:

Herb Acken
Larry Kiker
Bob Raymond

Tom Babcock
Jo List

DULY ADOPTED THIS ____ day of November, 2009.

Town Council of the Town of Fort Myers Beach

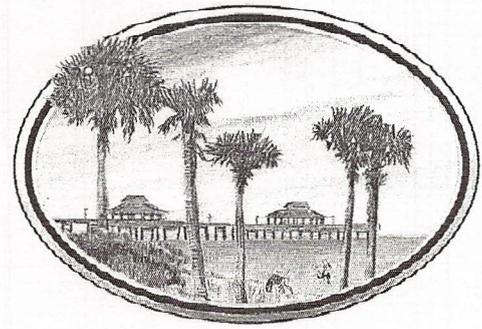
BY: _____
Larry Kiker, Mayor

Approved as to legal sufficiency:

ATTEST:

By: _____
Anne Dalton, Esquire
Town Attorney

By: _____
Michelle D. Mayher, Town Clerk



STAFF REPORT

To: Town Council
CC: Jack Green, Town Manager, Anne Dalton, Town Attorney
From: Cathie Lewis, Interim Public Works Director
Date: October 26, 2009
Subject: **Water Utility Rate Adjustment Hearing**

The attached is the additional analysis conducted based on the request to provide further examination of the multi-family customer class. In an effort to clarify the information attached and information previously distributed, I have provided a review of what has been evaluated to date with options to consider for adopting the rate adjustment.

Below is a summary of the Florida Rural Water Association (FRWA) rate study process and the findings resulting from their study of the Public Works Services, Inc. (PWSI) rate structure, system review and expenses.

- A minimum 23% increase in revenue is needed to meet the on-going operations and financial needs of the water utility excluding capital improvements.
- The initial system requirements review was completed and then work began to consider alternative rate structures that would provide the overall 23% increase with the least impact on all customer classes.
- FRWA suggested that by modifying the method of how multi-family properties are billed the base rate (fixed monthly cost); the increase to the base rate could be reduced from 23% to 10% for all customer classes and still achieve the required 23%.
- FRWA also reported that the current rate structure is not a conservation based billing structure as required by the water management districts.
- FRWA went further to recommend that the utility consider implementing an annual rate increase based on two standard accepted Florida price indexes.
- All recommendations made are standard and customary.

The Town's Water Utility AdHoc Committee recommended additional adjustment based on the FRWA report.

- Collect \$300,000 annually to begin building capital reserves.
- Also recommended treating a multi-family unit as a single family residence for both base rate and consumption threshold, hereinafter referred to as *modified block rate*.

Staff and FRWA then evaluated and compared different rate structures to develop options that would meet the financial requirements of the utility. The following is the suggested options for the implementation of the FRWA and AdHoc committee recommendations and findings.

1. General System Fees and Charges (select one)

- a. *Increase connection fees, meter installation fees, tap-in charges, premise visits, turn-on/turn-off charges, plan review fees, fire service charges, customer deposit, late fee, and any and all charges not specifically identified below, by a minimum 23%.*
- b. *Do not increase the general system fees.*

2. Monthly Base Charge (select one)

- a. *Replace the single monthly meter charge for multi-family properties to a base charge on each unit of the multi-family property; this is exactly how single family units are charged. By implementing this modification 2 of the 3 customer classes are held to a 10% increase on the base charge. However, the multi-family class will realize a 10% or higher increase over what they had been paying previously.*
- b. *Continue to charge the base charge on the meter size for all customer classes. This will require the need to increase the base charge to 23% for all customer classes to meet the revenue requirements.*

3. Capital Reserves (select one)

- a. *Incorporate the collection for capital reserves into the base charge so that each single family residence, each multi-family unit and each commercial account pays \$2.72 per month, equaling approximately \$300,000 per year, with an annual review but no sunset date.*
- b. *Incorporate the collection for capital reserves into the base charge so that each single family residence, each multi-family unit and each commercial account pays \$2.72 per month, equaling approximately \$300,000 per year, with a sunset for collection of this on January 1, 2012.*
- c. *Do not approve the additional amount for collection for capital reserves.*

4. Monthly Consumption Charge

(select one)

- a. *Choose conservation based billing method in that more water consumed the higher the cost of the water per 1,000 gallons. (Tier, Block, or Modified Block)*
- b. *Do not choose a conservation billing method. (Existing rate structure)*

(select one)

- c. *Approve the Tier Rate method. Staff's opinion is that the tier rate structure is punitive to the large meter customers because the cost per 1,000 gallons increases consistently among all customer classes and does not take into account the large meter customers. (A copy of the tier rate structure is attached.)*

- d. *Approve the Block Rate method. Staff supports some form of a block rate as it best meets the needs of all customer classes, in that large meter customers are allowed a higher consumption threshold before being charged at a higher block rate. This methodology takes into account that larger water customers have different needs and should not be penalized for justifiable water usage. It also takes into account those customers that use excess water by charging a higher amount per 1,000 gallons as the consumption increases. (A copy of the block rate structure is attached.)*
- e. *Approve the Modified Block Rate method. Initially staff was concerned with the AdHoc committee recommendation for a modified block rate, but after obtaining detailed information on multi-family consumption and reevaluating the revenue projections those concerns have been eliminated. On average single family customers use 5,500 gallons per month, compared to 2,300 gallons per month per multi-family unit. This difference is likely due to the seasonal occupancy variation of the multi-family properties. Staying in line with the proposal that the base charge be charged per unit vs. meter size it is reasonable to carry this method over to customer consumption and charge consumption by the unit vs. meter size.
It has been determined through the staff analysis that the revenue threshold recommended by FRWA is met without the need to increase the block rates above what was originally proposed. Therefore the rates proposed in the petition for the modified block rate are higher than required. Staff recommends the rates in the block rate be used for the modified block rate, as attached.*

5. Annual Rate Index. (select one)

- a. *Approve an annual increase tied to the Florida Public Service Commission Consumer Price Index and/or the Engineering News Record Consumer Price Index that would never be less than 0%, without a sunset.*
- b. *Approve an annual increase tied to the Florida Public Service Commission Consumer Price Index and/or the Engineering News Record Consumer Price Index that would never be less than 0%, with a sunset of January 1, 2012.*
- c. *Do not approve an annual increase.*

Projected Annual Revenue Comparison/Options

		Average No. of Customers	No. of Meters	Current Revenue	Current Rate Structure with 23% Increase	Tier at 6000	Block at 6,000	Modified Block at 6,000 with Multi- Family Billed Per Unit
Residential		2,473						
Revenue per 1,000 Gallons				\$ 955,140.00	\$ 1,174,822.20	\$ 1,314,324.00	\$ 1,281,516.00	\$ 1,281,516.00
Base Charge				\$ 183,996.00	\$ 226,315.08	\$ 202,380.00	\$ 202,380.00	\$ 202,380.00
Administrative Fee				\$ 66,768.00	\$ 82,124.64	\$ 82,124.64	\$ 82,124.64	\$ 82,124.64
Total Residential				\$ 1,205,904.00	\$ 1,483,261.92	\$ 1,598,828.64	\$ 1,566,020.64	\$ 1,566,020.64
Multi-Family		6,464	464					
Revenue per 1,000 Gallons				\$ 463,147.32	\$ 569,671.20	\$ 1,333,009.02	\$ 668,476.33	\$ 559,119.40
Base Charge				\$ 148,129.20	\$ 182,198.92	\$ 529,013.76	\$ 529,013.76	\$ 529,013.76
Administrative Fee				\$ 12,528.00	\$ 15,409.44	\$ 15,409.44	\$ 15,409.44	\$ 15,409.44
Total Multi-Family				\$ 623,804.52	\$ 767,279.56	\$ 1,877,432.22	\$ 1,212,899.53	\$ 1,103,542.60
Commercial/Non-Residential/Irrigation		(1)	221					
Revenue per 1,000 Gallons				\$ 328,303.20	\$ 403,812.94	\$ 434,687.64	\$ 427,067.76	\$ 427,067.76
Base Charge				\$ 58,162.20	\$ 71,539.51	\$ 63,978.48	\$ 63,978.48	\$ 63,978.48
Administrative Fee				\$ 5,976.00	\$ 7,350.48	\$ 7,350.48	\$ 7,350.48	\$ 7,350.48
Total Commercial				\$ 392,441.40	\$ 482,702.92	\$ 506,016.60	\$ 498,396.72	\$ 498,396.72
Total Annual Revenue				\$ 2,222,149.92	\$ 2,733,244.40	\$ 3,982,277.46	\$ 3,277,316.89	\$ 3,167,959.96

(1) Irrigation Customers are not specifically included in the number of meters or revenue projections due to data being unavailable - Current Annual Revenue = Approximately \$190,000.00

Monthly Water Bill Comparisons
Residential Property

	<u>Current Rate</u>	<u>Current Rate</u>	<u>Tier Rate</u>	<u>Block Rate</u>	<u>Modified Rate</u>
	<u>Structure</u>	<u>Structure with</u>	<u>Structure</u>	<u>Structure</u>	<u>Structure</u>
		<u>23% Increase</u>			
5,000 Gallons per Month	\$ 19.55	\$ 24.05	\$ 24.00	\$ 24.00	\$ 24.00
Base Charge	\$ 6.20	\$ 7.63	\$ 6.82	\$ 6.82	\$ 6.82
Capital Reserve	\$ -	\$ -	\$ -	\$ 2.72	\$ 2.72
Administrative Fee	\$ 2.25	\$ 2.77	\$ 2.77	\$ 2.77	\$ 2.77
Total Monthly Water Billing	\$ 28.00	\$ 34.44	\$ 33.59	\$ 36.31	\$ 36.31
25,000 Gallons per Month	\$ 97.75	\$ 120.23	\$ 139.00	\$ 139.00	\$ 139.00
Base Charge	\$ 6.20	\$ 7.63	\$ 6.82	\$ 6.82	\$ 6.82
Capital Reserve	\$ -	\$ -	\$ -	\$ 2.72	\$ 2.72
Administrative Fee	\$ 2.25	\$ 2.77	\$ 2.77	\$ 2.77	\$ 2.77
Total Monthly Water Billing	\$ 106.20	\$ 130.63	\$ 148.59	\$ 151.31	\$ 151.31
46,000 Gallons per Month	\$ 179.86	\$ 221.23	\$ 276.80	\$ 276.80	\$ 276.80
Base Charge	\$ 6.20	\$ 7.63	\$ 6.82	\$ 6.82	\$ 6.82
Capital Reserve	\$ -	\$ -	\$ -	\$ 2.72	\$ 2.72
Administrative Fee	\$ 2.25	\$ 2.77	\$ 2.77	\$ 2.77	\$ 2.77
Total Monthly Water Billing	\$ 188.31	\$ 231.62	\$ 286.39	\$ 289.11	\$ 289.11

Monthly Water Bill Comparisons
Small Multi-Family Property

	<u>Current Rate</u> <u>Structure</u>	<u>Current Rate</u> <u>Structure with</u> <u>23% Increase</u>	<u>Tier Rate</u> <u>Structure</u>	<u>Block Rate</u> <u>Structure</u>	<u>Modified Rate</u> <u>Structure</u>
Two Unit Multi-Family w/ 5/8" Meter					
2,000 Gallons per Month	\$ 7.82	\$ 9.62	\$ 9.60	\$ 9.60	\$ 9.60
Base Charge	\$ 8.45	\$ 10.39	\$ 13.64	\$ 13.64	\$ 13.64
Capital Reserve	\$ -	\$ -	\$ -	\$ 5.44	\$ 5.44
Administrative Fee	\$ 2.25	\$ 2.77	\$ 2.77	\$ 2.77	\$ 2.77
Total Monthly Water Billing	\$ 18.52	\$ 22.78	\$ 26.01	\$ 31.45	\$ 31.45
Four Unit Multi-Family w/ 5/8" Meter					
46,000 Gallons per Month	\$ 179.86	\$ 221.23	\$ 276.80	\$ 274.80	\$ 242.80
Base Charge	\$ 8.45	\$ 10.39	\$ 27.28	\$ 27.28	\$ 27.28
Capital Reserve	\$ -	\$ -	\$ -	\$ 10.88	\$ 10.88
Administrative Fee	\$ 2.25	\$ 2.77	\$ 2.77	\$ 2.77	\$ 2.77
Total Monthly Water Billing	\$ 190.56	\$ 234.39	\$ 306.85	\$ 315.73	\$ 283.73
Seven Unit Multi-Family w/ 5/8" Meter					
25,000 Gallons per Month	\$ 97.75	\$ 120.23	\$ 139.00	\$ 137.00	\$ 120.00
Base Charge	\$ 8.45	\$ 10.39	\$ 47.74	\$ 47.74	\$ 47.74
Capital Reserve	\$ -	\$ -	\$ -	\$ 19.04	\$ 19.04
Administrative Fee	\$ 2.25	\$ 2.77	\$ 2.77	\$ 2.77	\$ 2.77
Total Monthly Water Billing	\$ 108.45	\$ 133.39	\$ 189.51	\$ 206.55	\$ 189.55

Monthly Water Bill Comparisons
Medium Multi-Family Property

	<u>Current Rate</u>	<u>Current Rate</u>	<u>Tier Rate</u>	<u>Block Rate</u>	<u>Modified Rate</u>
	<u>Structure</u>	<u>Structure with</u>	<u>Structure</u>	<u>Structure</u>	<u>Structure</u>
		<u>23% Increase</u>			
Eighteen Unit Multi-Family (1.5" Meter)					
226,000 Gallons per Month	\$ 883.66	\$ 1,086.90	\$ 1,500.80	\$ 1,640.80	\$ 1,202.80
Base Charge	\$ 33.50	\$ 41.21	\$ 122.76	\$ 122.76	\$ 122.76
Capital Reserve	\$ -	\$ -	\$ -	\$ 48.96	\$ 48.96
Administrative Fee	\$ 2.25	\$ 2.77	\$ 2.77	\$ 2.77	\$ 2.77
Total Monthly Water Billing	\$ 919.41	\$ 1,130.87	\$ 1,626.33	\$ 1,815.29	\$ 1,377.29
Twenty-Four Unit Multi-Family (2" Meter)					
68,000 Gallons per Month	\$ 265.88	\$ 327.03	\$ 426.40	\$ 402.40	\$ 326.40
Base Charge	\$ 51.85	\$ 63.78	\$ 163.68	\$ 163.68	\$ 163.68
Capital Reserve	\$ -	\$ -	\$ -	\$ 65.28	\$ 65.28
Administrative Fee	\$ 2.25	\$ 2.77	\$ 2.77	\$ 2.77	\$ 2.77
Total Monthly Water Billing	\$ 319.98	\$ 393.58	\$ 592.85	\$ 634.13	\$ 558.13
Forty-Two Unit Multi-Family (2" Meter)					
60,000 Gallons per Month	\$ 234.60	\$ 288.56	\$ 372.00	\$ 348.00	\$ 288.00
Base Charge	\$ 51.85	\$ 63.78	\$ 286.44	\$ 286.44	\$ 286.44
Capital Reserve	\$ -	\$ -	\$ -	\$ 114.24	\$ 114.24
Administrative Fee	\$ 2.25	\$ 2.77	\$ 2.77	\$ 2.77	\$ 2.77
Total Monthly Water Billing	\$ 288.70	\$ 355.10	\$ 661.21	\$ 751.45	\$ 691.45

Monthly Water Bill Comparisons
Large Multi-Family Property

	<u>Current Rate</u>	<u>Current Rate</u>	<u>Tier Rate</u>	<u>Block Rate</u>	<u>Modified Rate</u>
	<u>Structure</u>	<u>Structure with</u>	<u>Structure</u>	<u>Structure</u>	<u>Structure</u>
		<u>23% Increase</u>			
One Hundred Four Unit Multi-Family (3" Meter)					
265,000 Gallons per Month	\$ 1,036.15	\$ 1,274.46	\$ 1,929.20	\$ 1,652.00	\$ 1,272.00
Base Charge	\$ 101.45	\$ 124.78	\$ 709.28	\$ 709.28	\$ 709.28
Capital Reserve	\$ -	\$ -	\$ -	\$ 282.88	\$ 282.88
Administrative Fee	\$ 2.25	\$ 2.77	\$ 2.77	\$ 2.77	\$ 2.77
Total Monthly Water Billing	\$ 1,139.85	\$ 1,402.02	\$ 2,641.25	\$ 2,646.93	\$ 2,266.93
One Hundred Eighty Unit Multi-Family (4" Meter)					
318,000 Gallons per Month	\$ 1,243.38	\$ 1,529.36	\$ 2,126.40	\$ 1,802.40	\$ 1,526.40
Base Charge	\$ 157.25	\$ 193.42	\$ 1,227.60	\$ 1,227.60	\$ 1,227.60
Capital Reserve	\$ -	\$ -	\$ -	\$ 489.60	\$ 489.60
Administrative Fee	\$ 2.25	\$ 2.77	\$ 2.77	\$ 2.77	\$ 2.77
Total Monthly Water Billing	\$ 1,402.88	\$ 1,725.54	\$ 3,356.77	\$ 3,522.37	\$ 3,246.37
Two Hundred Ninety-Six Unit Multi-Family (4" Meter)					
444,000 Gallons per Month	\$ 1,736.04	\$ 2,135.33	\$ 2,983.20	\$ 2,659.20	\$ 2,131.20
Base Charge	\$ 157.25	\$ 193.42	\$ 2,018.72	\$ 2,018.72	\$ 2,018.72
Capital Reserve	\$ -	\$ -	\$ -	\$ 805.12	\$ 805.12
Administrative Fee	\$ 2.25	\$ 2.77	\$ 2.77	\$ 2.77	\$ 2.77
Total Monthly Water Billing	\$ 1,895.54	\$ 2,331.51	\$ 5,004.69	\$ 5,485.81	\$ 4,957.81

Monthly Water Bill Comparisons
Commercial Property

	<u>Current Rate</u>	<u>Current Rate</u>	<u>Tier Rate</u>	<u>Block Rate</u>	<u>Modified Rate</u>
	<u>Structure</u>	<u>Structure with</u> <u>23% Increase</u>	<u>Structure</u>	<u>Structure</u>	<u>Structure</u>
Commercial 5/8" Meter					
45,000 Gallons per Month	\$ 175.95	\$ 216.42	\$ 270.00	\$ 268.00	\$ 268.00
Base Charge	\$ 8.45	\$ 10.39	\$ 9.30	\$ 9.30	\$ 9.30
Capital Reserve	\$ -	\$ -	\$ -	\$ 2.72	\$ 2.72
Administrative Fee	\$ 2.25	\$ 2.77	\$ 2.77	\$ 2.77	\$ 2.77
Total Monthly Water Billing	\$ 186.65	\$ 229.58	\$ 282.07	\$ 282.79	\$ 282.79
Commercial 2" Meter					
116,000 Gallons per Month	\$ 453.56	\$ 557.88	\$ 752.80	\$ 769.80	\$ 769.80
Base Charge	\$ 51.85	\$ 63.78	\$ 57.04	\$ 57.04	\$ 57.04
Capital Reserve	\$ -	\$ -	\$ -	\$ 2.72	\$ 2.72
Administrative Fee	\$ 2.25	\$ 2.77	\$ 2.77	\$ 2.77	\$ 2.77
Total Monthly Water Billing	\$ 507.66	\$ 624.42	\$ 812.61	\$ 832.33	\$ 832.33
Commercial 4" Meter					
381,000 Gallons per Month	\$ 1,489.71	\$ 1,832.34	\$ 2,554.80	\$ 2,230.80	\$ 2,230.80
Base Charge	\$ 157.25	\$ 193.42	\$ 172.98	\$ 172.98	\$ 172.98
Capital Reserve	\$ -	\$ -	\$ -	\$ 2.72	\$ 2.72
Administrative Fee	\$ 2.25	\$ 2.77	\$ 2.77	\$ 2.77	\$ 2.77
Total Monthly Water Billing	\$ 1,649.21	\$ 2,028.53	\$ 2,730.55	\$ 2,409.27	\$ 2,409.27

Proposed Tier Rate Schedule

Monthly Tier Rate (Gallons)			
<u>Customer Class</u>	0 - 6,000	6,001 - 30,000	30,001 and Above
Residential	\$4.80	\$5.80	\$6.80
Multi-Family	\$4.80	\$5.80	\$6.80
Commercial/Non-Residential/Irrigation	\$4.80	\$5.80	\$6.80

Monthly Base Rate					
<u>Charge Code</u>	<u>Meter Size</u>	<u>Base Charge</u>			<u># of Units</u>
		<u>Current</u>	<u>Proposed at 23%</u>	<u>Proposed at 10%</u>	
<u>Residential</u>					
1	5/8"	\$6.20	\$7.63	\$6.82	2473
<u>Commercial</u>					
2	5/8"	\$8.45	\$10.39	\$9.30	127
	3/4"	\$11.55	\$14.21	\$12.71	
3	1"	\$17.75	\$21.83	\$19.53	37
4	1.5"	\$33.50	\$41.21	\$36.85	31
5	2"	\$51.85	\$63.78	\$57.04	15
6	3"	\$101.45	\$124.78	\$111.60	8
7	4"	\$157.25	\$193.42	\$172.98	3
	6"	\$312.25	\$384.07	\$343.48	
	8"	\$498.25	\$612.85	\$548.08	
	10"	\$901.25	\$1,108.54	\$991.38	
<u>Irrigation</u>					
8	5/8"	\$8.45	\$10.39	\$9.30	33
9	1"	\$17.75	\$21.83	\$19.53	16
10	1.5"	\$33.50	\$41.21	\$36.85	15
11	2"	\$51.85	\$63.78	\$57.04	5
<u>Multi-Family</u>					
12	5/8"	\$8.45	\$10.39	\$6.82	897
13	1"	\$17.75	\$21.83	\$6.82	150
14	1.5"	\$33.50	\$41.21	\$6.82	461
15	2"	\$51.85	\$63.78	\$6.82	1222
16	3"	\$101.45	\$124.78	\$6.82	2058
17	4"	\$157.25	\$193.42	\$6.82	1676

Proposed Block Rate Schedule

Block Rate Gallons Charge/1,000 Gallons				
	<u>Block 1</u>	<u>Block 2</u>	<u>Block 3</u>	<u>Block 4</u>
	\$4.80	\$5.80	\$6.80	\$7.80
Monthly Rate Blocks (Gallons)				
<u>Meter Size</u>	<u>Block 1</u>	<u>Block 2</u>	<u>Block 3</u>	<u>Block 4</u>
R 5/8" -1"	0 - 6,000	6,001 - 30,000	30,001 - 50,000	Above 50,000
5/8"	0 - 8,000	8,001 - 30,000	30,001 - 60,000	Above 60,000
1"	0 - 9,000	9,001 - 40,000	40,001 - 60,000	Above 60,000
1-1/2"	0 - 12,000	12,001 - 45,000	45,001 - 65,000	Above 65,000
2"	0 - 15,000	15,001 - 50,000	50,001 - 70,000	Above 70,000
3"	0 - 50,000	50,001 - 100,000	100,001 - 400,000	Above 400,000
4"	0 - 60,000	60,001 - 300,000	300,001 - 500,000	Above 500,000
6"	0 - 70,000	70,001 - 400,000	400,001 - 600,000	Above 600,000
8"	0 - 90,000	90,001 - 500,000	500,001 - 700,000	Above 700,000
10"	0 - 150,000	150,001 - 600,000	600,001 - 800,000	Above 800,000

Monthly Base Rate					
<u>Charge Code</u>	<u>Meter Size</u>	<u>Base Charge</u>	<u># of Units</u>		
		<u>Current</u>	<u>Proposed</u>		
<u>Residential</u>					
1	5/8"	\$6.20	\$6.82	2473	
<u>Commercial</u>					
2	5/8"	\$8.45	\$9.30	127	
	3/4"	\$11.55	\$12.71		
3	1"	\$17.75	\$19.53	37	
4	1.5"	\$33.50	\$36.85	31	
5	2"	\$51.85	\$57.04	15	
6	3"	\$101.45	\$111.60	8	
7	4"	\$157.25	\$172.98	3	
	6"	\$312.25	\$343.48		
	8"	\$498.25	\$548.08		
	10"	\$901.25	\$991.38		
<u>Irrigation</u>					
8	5/8"	\$8.45	\$9.30	33	
9	1"	\$17.75	\$19.53	16	
10	1.5"	\$33.50	\$36.85	15	
11	2"	\$51.85	\$57.04	5	
<u>Multi-Family</u>					
12	5/8"	\$8.45	\$6.82	897	
13	1"	\$17.75	\$6.82	150	
14	1.5"	\$33.50	\$6.82	461	
15	2"	\$51.85	\$6.82	1222	
16	3"	\$101.45	\$6.82	2058	
17	4"	\$157.25	\$6.82	1676	

Modified Block Rate Schedule with 300,000 Contingency and Multi-Family Per Unit

Block Rate Gallons Charge/1,000 Gallons				
<u>Block 1</u>	<u>Block 2</u>	<u>Block 3</u>	<u>Block 4</u>	
\$4.80	\$5.80	\$6.80	\$7.80	
Monthly Rate Blocks (Gallons)				
<u>Customer Classification</u>	<u>Block 1</u>	<u>Block 2</u>	<u>Block 3</u>	<u>Block 4</u>
Residential, Multi-Family Per Unit	0 - 6,000	6,001 - 30,000	30,001 - 50,000	Above 50,000
Commercial, Irrigation, Non-Residential				
5/8"	0 - 8,000	8,001 - 30,000	30,001 - 60,000	Above 60,000
1"	0 - 9,000	9,001 - 40,000	40,001 - 60,000	Above 60,000
1-1/2"	0 - 12,000	12,001 - 45,000	45,001 - 65,000	Above 65,000
2"	0 - 15,000	15,001 - 50,000	50,001 - 70,000	Above 70,000
3"	0 - 50,000	50,001 - 100,000	100,001 - 400,000	Above 400,000
4"	0 - 60,000	60,001 - 300,000	300,001 - 500,000	Above 500,000
6"	0 - 70,000	70,001 - 400,000	400,001 - 600,000	Above 600,000
8"	0 - 90,000	90,001 - 500,000	500,001 - 700,000	Above 700,000
10"	0 - 150,000	150,001 - 600,000	600,001 - 800,000	Above 800,000

Monthly Base Rate						
<u>Charge Code</u>	<u>Meter Size</u>	<u>Base Charge</u>			<u># of Units</u>	
		<u>Current</u>	<u>Proposed</u>	<u>Prop with Contingency</u>		
<u>Residential</u>						
1	5/8"	\$6.20	\$6.82	\$9.54	2473	
<u>Commercial</u>						
2	5/8"	\$8.45	\$9.30	\$12.02	127	
	3/4"	\$11.55	\$12.71	\$15.43		
3	1"	\$17.75	\$19.53	\$22.25	37	
4	1.5"	\$33.50	\$36.85	\$39.57	31	
5	2"	\$51.85	\$57.04	\$59.76	15	
6	3"	\$101.45	\$111.60	\$114.32	8	
7	4"	\$157.25	\$172.98	\$175.70	3	
	6"	\$312.25	\$343.48	\$346.20		
	8"	\$498.25	\$548.08	\$550.80		
	10"	\$901.25	\$991.38	\$994.10		
<u>Irrigation</u>						
8	5/8"	\$8.45	\$9.30	\$12.02	33	
9	1"	\$17.75	\$19.53	\$22.25	16	
10	1.5"	\$33.50	\$36.85	\$39.57	15	
11	2"	\$51.85	\$57.04	\$59.76	5	
<u>Multi-Family</u>						
12	5/8"	\$8.45	\$6.82	\$9.54	897	
13	1"	\$17.75	\$6.82	\$9.54	150	
14	1.5"	\$33.50	\$6.82	\$9.54	461	
15	2"	\$51.85	\$6.82	\$9.54	1222	
16	3"	\$101.45	\$6.82	\$9.54	2058	
17	4"	\$157.25	\$6.82	\$9.54	1676	

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

Memorandum

To: Mayor, Vice Mayor, Town Councilmembers
CC: Town Manager, Finance Director, Public Works Director, Town Clerk
Date: November 2, 2009
Subject: Petition for Utility Rate Adjustment

On November 16, 2009, the Town Council is scheduled to hold a hearing to consider the Petition brought forward by the Town of Fort Myers Beach Public Works Services Incorporated (the water utility) for an adjustment in water utility fees and charges. Jurisdiction for the Town Council to hold this hearing comes from Section 180.13, Florida Statutes, and Section 8(c) of Ordinance 2001-03.

Procedural and Substantive Hearing Requirements

Section 8(e) of Ordinance 2001-03 sets out the procedural hearing requirements as follows: the Town Council " shall hold at least one public hearing after due public notice prior to approval of any adjustments to rates and charges. Action shall be taken by resolution and shall constitute final agency action."

Section 180.13, Florida Statutes sets out the substantive hearing requirements as follows: any adjustment in utility fees and charges by the Town must be "*fair and reasonable*". In reviewing the water utility's request for differential rate structures among customers, it may be helpful to note that the Florida Supreme Court has stated that a municipality has the right to put utility consumers in different rate classifications so long as such classifications have a *reasonable factual basis or justification and are not arbitrary*.

In reviewing the water utility's request for a fee for capital improvement costs, it may be further helpful to note that the interpretative case law is clear that the Town may include the cost of capital improvement reserves in such rate adjustment, with two caveats. First, there must be a specific finding of fact that capital improvements are required and that the fees to be charged represent a the rate payers' pro rata share of *reasonably anticipated capital costs*. Secondly, the Resolution authorizing capital improvement reserves must specify that such monies are to be segregated and not used for non-capital expenses. Accordingly, if the Town Council chooses to grant imposition of a fee for capital improvement reserves, the Resolution will need to be modified accordingly.

Findings of Fact, Conclusions and Final Agency Action: Town Resolution

If Council so chooses, specific findings of fact can be drawn from the first three pages of the Executive Summary of the Water Rate Study dated July 3, 2009, prepared by the Florida Rural Water Association. Although most of these comments are couched as recommendations, various proposed findings of fact are woven into the recommendations and can be extracted for purposes of complying with the statutory requirements. In addition, if Council chooses, the rate study objectives set forth on page 3 could be added to the Town Council resolution to set out Council's policy goals leading to appropriate factual determinations. Please note that Tom Gustafson from the Florida Rural Water Association will be physically present at the hearing to testify and answer questions. This will avoid hearsay problems with Council's consideration of the Water Study during its deliberations.

If Council further chooses, specific findings of fact can also be drawn from the Ad Hoc Committee's report and/or the Staff Report, supplemented by the appropriate testimony, as well as testimony from the general public at the hearing. As presently couched in the draft Resolution, Section 2 is for Council to approve or not approve the Findings and Recommendations in the Water Study, Section 3 is the same as to the Town Staff Report, and Section 4 is the same as to the allegations in the Petition filed by the water corporation. Any of these Sections can be modified or deleted and an additional Section can be added to address testimony from the general public or other sources of information if so desired.

Please note, however, that to the extent that the proposed findings of fact from these different sources may be at variance, Council would need to distinguish which findings it is incorporating and which it is not incorporating. Such event would require careful drafting of additional language for Sections 2, 3 and/or 4 of the Resolution.

Finally, after reviewing the matter of the automatic annual increase in more detail and discussing it with Mr. Gustafson, I am concerned about the legality of such an increase without either a prior Council hearing or a specific quantitative measurement such as an annual index. If Council were to grant an automatic annual increase under more subjective circumstances, it runs the risk of such increase being arbitrary and/or not reasonably required. However, if Council chose to adopt a specific cost-of-living index for such change and also make a finding of fact that fluctuations in such index would be reasonably related to fluctuations in Town water utility costs, an automatic rate adjustment without hearing would have a reasonable basis in fact. Please note, however, Council probably would wish to state that the minimum rate adjustment under such an index would be zero to avoid a negative adjustment scenario.

Please advise as to questions or comments. Thank you.