

**MINUTES  
FORT MYERS BEACH TOWN COUNCIL**

Town Hall – Council Chambers  
2523 Estero Boulevard  
Fort Myers Beach, FL 33931

September 10, 2007  
5:01 PM

**TOWN OF FORT MYERS BEACH, FLORIDA PUBLIC WORKS SERVICES  
INC. BOARD OF DIRECTORS**

The meeting was called to order. All members of the Board of Directors were present. All stood and recited the pledge of allegiance.

**DISCUSSION AND DIRECTION REGARDING WATER RATE INCREASE**  
Town Public Works Director Jack Green explained to the Council that the Town's first notification of the County's bulk water rate increase was received by him via e-mail on August 20, 2007. The interlocal agreement with Lee County allows for a 30 days' notice, however the Town's ordinance requires notifying the residents no less than 120 days' prior to any rate increase. The Board of Directors would petition the Town Council to request a deferment from the Board of County Commissioners.

**Opened Public Comment**

None

**Closed Public Comment**

**MOTION:** Secretary Kiker made a motion to request the deferment for the 120 days as outlined in the ordinance 01-03. Vice President Acken seconded the motion.

**VOTE:** Motion passed 5-0.

**MOTION:** Director Shenko moved to have a special meeting of the Public Works Services Inc. to be held next Monday, September 17, at 6:25 PM to bring a petition to pass along actual costs of the water utility increase to Town customers. Treasurer Meador seconded the motion.

**VOTE:** Motion passed 5-0.

**PUBLIC HEARING:**

**Opened Public Comment**

Public Comment was heard:

Dan Graviss spoke regarding his concern about the North Estero Project.

Public Hearings on Adoption of Tentative Millage Rate

Fiscal Year 2007-2008 Budget

Regular Town Council Meeting

September 10, 2007

**Closed Public Comment**

Attorney Dalton read the title of Resolution 07-06-U,  
**RESOLUTION 07-06-U, RESOLUTION OF THE TOWN OF FORT MYERS  
BEACH PUBLIC WORKS SERVICES, INC. A FLORIDA NOT FOR PROFIT  
CORPORATION ADOPTION OF BUDGET FOR FISCAL YEAR 2007-2008**

**MOTION:** Vice President Acken moved to accept the resolution as written. Secretary Kiker seconded the motion. The motion was amended to adjust the total 2007-08 Revenues to be reduced to \$4,503,191, and the total expenditures to \$597,810.00.

**VOTE:** Motion passed 5-0.

Motion to adjourn. 5:45 PM

**TOWN OF FORT MYERS BEACH PUBLIC WORKS AGENCY**

President Boback opened the meeting at 5:45 PM.

Attorney Dalton read the title, **RESOLUTION NUMBER 07-01 PWA, RESOLUTION  
OF THE TOWN OF FORT MYERS BEACH PUBLIC WORKS AGENCY  
APPROVAL OF BUDGET FOR TOWN OF FORT MYERS BEACH PUBLIC  
WORK SERVICES, INC. FOR FISCAL YEAR 2007- 2008.**

Attorney Dalton read the revisions to the exhibit in the proposed resolution, which provided for the reduced meter water sales, the cash reserve and the total expenditures as adopted in Resolution 07-06-U.

**Opened Public Comment**

None

**Closed Public Comment**

**MOTION:** Vice President Acken moved to adopt the resolution. Director Shenko seconded the motion.

**VOTE:** Motion passed 5-0.

Motion to adjourn: 5:50 PM

**TOWN OF FORT MYERS BEACH DOWNTOWN REDEVELOPMENT  
AGENCY**

Mr. Boback called to order the meeting of the Board of Directors of the Downtown Redevelopment Agency.

Public Hearings on Adoption of Tentative Millage Rate  
Fiscal Year 2007-2008 Budget  
Regular Town Council Meeting  
September 10, 2007

Attorney Dalton read resolution 07-01-DRA

**RESOLUTION OF THE DOWNTOWN REDEVELOPMENT AGENCY OF THE TOWN OF FORT MYERS BEACH, FLORIDA RESOLUTION NUMBER 07-01- DRA.**

**MOTION:** Mr. Shenko moved to adopt resolution 07-01-DRA. Mr. Kiker seconded the motion.

**VOTE:** Motion passed 4-1, with Mr. Kiker dissenting.

**MOTION:** Mr. Shenko moved to direct the Town to begin active enforcement to those individuals who owe the Town in excess of one quarter million dollars in assessments. Mr. Meador seconded the motion.

Mr. Shenko amended his motion so that enforcement not include litigation without prior approval of the Downtown Redevelopment Board of Directors. Mr. Meador amended his second.

**VOTE:** Motion passed 3-2, with Mr. Acken and Mr. Kiker dissenting.

Adjournment: 6:06 PM.

**TOWN OF FORT MYERS BEACH PUBLIC HEARING ON MILLAGE AND FISCAL YEAR 2007-2008**

- A. First Public Hearing for Review and Approval of Tentative Millage for Fiscal Year 2007-2008

Attorney Dalton read the title of resolution 07-31

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RESOLUTION NUMBER 07-31**

**A RESOLUTION TO ADOPT AND LEVY AD VALOREM TAXES WITHIN THE CORPORATE LIMITS OF THE TOWN OF FORT MYERS BEACH, FLORIDA FOR THE TAX YEAR 2007-2008, IN THE AMOUNT OF .6053 MILLS (\$0.6053 PER \$1,000) BASED ON THE ASSESSED VALUE OF NON-EXEMPT REAL AND PERSONAL PROPERTY LOCATED WITHIN THE TOWN LIMITS; PROVIDING AUTHORITY; LEVY OF AD VALOREM TAXES; PROVIDING MANNER OF ASSESSMENT AND COLLECTION; PROVIDING AN EFFECTIVE DATE**

**Opened Public Comment**

None

**Closed Public Comment**

Public Hearings on Adoption of Tentative Millage Rate

Fiscal Year 2007-2008 Budget

Regular Town Council Meeting

September 10, 2007

**MOTION:** Councilmember Shenko moved to adopt a tentative millage rate, which is last year's roll-back rate of .6053 mills, and adopt resolution 07-31 as presented. Seconded by Vice Mayor Kiker.

**VOTE:** Motion passed 5-0.

Public Hearing was closed.

Recess: 6:20 PM Reconvene 6:35 PM

First Public Hearing for Review and Approval of Tentative Budget, Fiscal Year 2007-2008; Resolution 07-32

Attorney Dalton read the title to Resolution 07-32

**RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA,  
ADOPTING THE TENTATIVE TOWN OPERATING AND CAPITAL BUDGET  
FOR FISCAL YEAR 2007/2008, PROVIDING AUTHORITY; TOWN  
MANAGER'S RESPONSIBILITY; TENTATIVE BUDGET; PUBLIC HEARING;  
CONSISTENCY WITH THE TOWN COMPREHENSIVE PLAN; ADOPTION;  
SEVERABILITY; REPEALING CLAUSE; AND EFFECTIVE DATE**

**Opened Public Comment**

Public Comment was heard:

- Roy Hinkleman spoke in favor of the Laguna Shores dredging project.
- Mark Ludvigsen spoke of his concerns for the newly formed building division.
- Rochelle Kay spoke in support of the LPA Historic Preservation Board.
- Dan Graviss expressed his concerns about the building division.
- Steve Antanacci spoke in support of the Beach Renourishment project.
- Pat Smith expressed an opinion that the budget has not been built from the ground up.

**Closed Public Comment**

**MOTION:** Councilmember Acken moved to approve the Budget as presented, and adopt resolution 07-32. Vice Mayor Kiker seconded. Adopt Resolution 07-32. Finance Director Evelyn Wicks stated the total expenditures as written would be \$18,196,899.00.

Council requested an explanation as to from where this number came, the budget crises across the state, and concerns regarding a proposal to adopt a budget in excess of eighteen million dollars.

Staff explained the budget process and requirements by the state to show carry-overs.

Councilmember Acken withdrew his motion, and moved to pick up the discussion on the budget discussion from where the Council left off on the meeting, of August 27, 2007.

Public Hearings on Adoption of Tentative Millage Rate  
Fiscal Year 2007-2008 Budget  
Regular Town Council Meeting  
September 10, 2007

Vice Mayor Kiker withdrew his second.

**MOTION:** Councilmember Meador moved to approve resolution 07-32, which sets the appropriations and revenue estimated to be in the amount of \$18,196,899.00. Councilmember Acken seconded the motion.

Recess: 7:30 PM Reconvene 7:50 PM

Councilmember Meador amended his motion to correct the figure according to what was presented by the Finance Director, to be \$18,397,499.00. Councilmember Acken amended his second.

**VOTE:** Motion passed 4-1, with Vice Mayor Kiker dissenting.

**MOTION:** Councilmember Acken moved that the discussion regarding the budget be tabled until after the balance of the evening's agenda was heard. Vice Mayor Kiker seconded the motion.

**VOTE:** Motion failed 3-2, with Mayor Boback, Councilmember Meador and Councilmember Shenko dissenting.

Council began going through the budget line by line, beginning where they had left off at the meeting of August 27, 2007, which was page 15 and a discussion of the Community Pool, Vice Mayor Kiker called for a point of order, as the pool contract was an item for discussion as a separate part of the evening's agenda. The proceeded through parking and the Emergency Management, agreeing to keep funds allocated for an emergency trailer, increasing the emergency contingency fund, no changes to the parking and other public works.

Community Development Administration: there was considerable discussion regarding salaries – existing and proposed, anticipated revenues from the newly adopted fee schedule. Council requested staff to provide detailed breakdown at the next budget meeting as it pertains to salaries.

Council cut funding for Program Activities such as Special Magistrate and fees for contract services.

In the LPA budgets, the HPB grant is dormant, and council removed that funding.

As to the Building Division, Council asked for a breakdown of salaries, proposed and existing, building code compliance and number of permits issued back three years.

In discussion of the Mound House budget, Council discussed the director's salary, asking for the date of hire, and when COLA was paid last year.

The Contingency fund was removed and added to emergency reserve, now \$855,000.

The Newton Park has nearly 1.7 million dollars in contingent liability fund. Staff to present a report of critical paths for each project and specifically if any will lose money and when.

*Recess: 10:15 PM Reconvene 10:30 PM*

In discussion of the Gas Tax, Council requested staff to look into bidding the enhanced trolley service.

Under Road Impact Fees, Council would like the North Estero Project to be a subject for a joint meeting with the Lee County Board of County Commissioners. North Estero Boulevard must be finished by June 2009 or we will lose the funding.

The item for Palmetto/Easy Street is funds from assessments paid to the Town for improvements in that neighborhood. Council asked for a report on who has paid and what is still owed.

In the Times Square budget, Public Works indicated there has been a savings of \$2,000. a month in solid waste costs. The \$10,000. listed as "other expenses" could be used for additional bike racks in the square.

Council finished reviewing Beach Access budget, Capital Projects fund, including the North Estero project. The Park Impact Fee must be spent by end of year - \$361,000.

## **REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH**

### **Opened Public Comment**

#### **Public Comment was heard:**

Bryan Munsey identified himself as vice-president of Champion Corporation and updated the Council as to the functions and accomplishments by Champion at the Beach Pool.

### **Closed Public Comment**

### **CONSENT AGENDA:**

Councilmember Acken pulled item F. from the consent agenda.

**MOTION:** Councilmember Shenko moved for approval of Consent Agenda items A through E.

Vice Mayor Kiker pulled item B.

Councilmember Shenko amended the motion to approve items A, C, D & E of the Consent Agenda. Councilmember Meador seconded the motion.

Public Hearings on Adoption of Tentative Millage Rate

Fiscal Year 2007-2008 Budget

Regular Town Council Meeting

September 10, 2007

**VOTE:** Motion passed 5-0.

Vice Mayor Kiker corrected minutes of August 20, 2007 on page 2 of 9, instead of Councilmember Shenko removed his second, it should read *Mayor Boback removed his second; on page 6 of 9, as to the motion by Councilmember Meador to send a proposal to the State of Florida, to have the wording include that we proposed to do that along with Lee County; add that Council scheduled a workshop on October 3 to discuss the Newton House; add that Mr. Parker was supposed to contact Lee County in regards to cleaning up the property; add that the meters were supposed to have shown up Wednesday by Mr. Green.*

Councilmember Acken corrected the minutes of August 20, 2007, page 7 of 9 to read, *Councilmember Acken moved to commit to forwarding the process of Beach Renourishment as a matter of principle, and not commit any funds at this time.*

Councilmember Meador did not agree with the proposed correction to approach the State along with Lee County as to the Newton Property.

**MOTION:** Vice Mayor Kiker moved to make the changes that he identified. Councilmember Acken seconded the motion.

**MOTION:** Councilmember Meador moved to amend; to strike any reference of his stating to take Lee County to Tallahassee to discuss the historic designation. Vice Mayor Kiker amended his motion .

**VOTE:** Motion passed 5-0.

Consent Agenda item F, Approval of Pool Contract.

**MOTION:** Councilmember Acken moved to table the discussion of the pool contract until such time as a new RFP can be issued, not to exceed six months, and contingent upon Champion pools being willing to extend their contract. Councilmember Shenko seconded the motion. Councilmember Acken amended his proposal to reject all proposals offered, and go out for a new proposal. Councilmember Shenko amended his second.

#### **Opened Public Comment**

Public Comment was heard:

- Harry Heist requested a declaration of ex-parte communication.
- Melissa Ryder, manager of the pool, supports Champion corporation.

#### **Closed Public Comment**

**MOTION:** Councilmember Acken amended the motion; to reject all bids with the contingency that Champion continue on an indeterminate basis, pending further Council action, and not immediately rebid. Councilmember Shenko amended the second.

Public Hearings on Adoption of Tentative Millage Rate

Fiscal Year 2007-2008 Budget

Regular Town Council Meeting

September 10, 2007

Attorney Dalton suggested that Council defer this item for a week, to address concerns such as a service provider agreement, and to enable staff to talk with Champion Corporation as to their willingness to extend the contract, and at what cost.

Councilmember Acken withdrew the motion, and Councilmember Shenko withdrew the second.

Councilmember Acken moved that this item be deferred to the next meeting, of September 17, 2007. Councilmember Shenko seconded the motion.

**VOTE:** Motion passed 5-0

**PUBLIC HEARINGS:**

Mayor Boback opened the public hearing.

- A. Ordinance 07-07, Amendment to Charter, Elections' Referendum – Terms

Attorney Dalton indicated that there were two versions of ordinance 07-07, version A and version B, but that the title on both versions was the same. Attorney Dalton read the title: **ORDINANCE 07-07 AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING THE CHARTER, PROVIDING AUTHORITY; AMENDMENT PROVIDING FOR NOVEMBER ELECTIONS; AMENDMENT - PROVIDING FOR FOUR YEAR TERMS FOR COUNCIL; INITIATIVE AND REFERENDUM; SEVERABILITY; REPEALING CLAUSE AND EFFECTIVE DATE.**

**Opened Public Comment**

None

**Closed Public Comment**

Councilmember Meador asked Attorney Dalton to explain the subtle differences in the two versions of the ordinance. Ms. Dalton identified the differences to be in section three, as to terms. Councilmember Meador noted that there was an integration clause in version A, and suggested that this clause might also be included in version B. Attorney Dalton concurred.

**MOTION:** Councilmember Meador made a motion to adopt Ordinance 07-07 Version A. Councilmember Shenko seconded the motion. Vice Mayor Kiker opposed the motion, stating that the referendum is confusing, that it is not YES or NO subject to Florida Statute.

Councilmember Acken indicated that he would be filing a conflict of interest form, Form 8B, Voting Conflict for Elected Municipal Officials. He indicated that extending his term would inure him to a financial gain.

Public Hearings on Adoption of Tentative Millage Rate

Fiscal Year 2007-2008 Budget

Regular Town Council Meeting

September 10, 2007

The Town Clerk called the roll:

Councilmember Meador	aye
Councilmember Shenko	aye
Mayor Boback	aye
Vice Mayor Kiker	nay
Councilmember Acken	abstain.

**VOTE:** Motion passed 3-1, with Vice Mayor Kiker dissenting, and Councilmember Acken abstaining.

Mayor Boback closed the public hearing.

**PUBLIC HEARING:**

B. Ordinance 07-06, Amendment to Charter, Terms - Plurality  
Attorney Dalton read the title, indicating that there are three versions of this ordinance.  
**ORDINANCE 07-06, ORDINANCE OF THE TOWN OF FORT MYERS BEACH, AMENDING THE CHARTER, PROVIDING AUTHORITY; AMENDMENT – REPEAL OF QUALIFICATION OF SPECIFIC COUNCIL SEAT; AMENDMENT – REPEAL OF REQUIRMENT OF RUN OFF ELECTION; REFERENDUM; SEVERABILITY; REPEALING CLAUSE AND EFFECTIVE DATE**

**Opened Public Comment**

None

**Closed Public Comment**

Attorney Dalton explained the difference between versions A and C is a new line added that has been bolded: Assignment of numbers shall be alphabetical by incoming councilmembers' last names. Ms. Dalton further explained differences in version A, Section 6, talks about the effective date, shall be effective as to the next ensuing election, and version C section 6, the effective date at the next election following the expiration of terms of all councilmembers elected in 2007.

**MOTION:** Councilmember Meador made a motion to adopt Ordinance 07-06, version A, with the change to Section 4, deleting section 4 of A, and inserting section 6 of version B. Councilmember Shenko seconded the motion.

The Town Clerk called the roll:

Councilmember Meador	aye
Councilmember Shenko	aye
Mayor Boback	nay
Vice Mayor Kiker	aye
Councilmember Acken	nay.

Public Hearings on Adoption of Tentative Millage Rate  
Fiscal Year 2007-2008 Budget  
Regular Town Council Meeting  
September 10, 2007

**VOTE:** Motion passed 3-2, with Mayor Boback and Councilmember Acken dissenting,

**ADMINISTRATIVE AGENDA:**

Attorney Dalton read Resolution 07-33

**A. RESOLUTION 07-33, TERMS**

**A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA  
PRESENTING REFERENDUM QUESTIONS FOR PROPOSED AMENDMENTS  
TO THE CHARTER OF THE TOWN OF FORT MYERS BEACH REGARDING  
COUNCIL TERMS OF OFFICE, NOVEMBER ELECTION IN ODD YEARS  
AND RELATED MATTERS**

**Opened Public Comment**

**None**

**Closed Public Comment**

**MOTION:** Councilmember Meador moved to adopt Resolution 07-33, keeping official ballot version A language and striking official ballot version B language.  
Councilmember Shenko seconded the motion.

**MOTION:** Councilmember Meador made a secondary motion to change the ballot language to use the words “be extended to 2009” instead of March 2008 for transition purposes. Motion failed for lack of a second.

**MOTION:** Vice Mayor Kiker moved to table this item. Councilmember Acken seconded the motion.

**VOTE:** Motion failed 3-2, with Mayor Boback, Councilmember Shenko and Councilmember Meador dissenting.

**VOTE:** Councilmember Shenko called the question on the pending motion (to adopt resolution 07-33). Motion passes 4-1 with Vice Mayor Kiker dissenting.

**Administrative Agenda:**

**B. Resolution 07-34, Referendum - Plurality**

Attorney Dalton read the title: **RESOLUTION 07-34**

**A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA  
PRESENTING REFERENDUM QUESTIONS FOR PROPOSED AMENDMENTS  
TO THE CHARTER OF THE TOWN OF FORT MYERS BEACH REGARDING  
ELECTION BY PLURALITY ELIMINATION OF REQUIREMENT TO RUN  
FOR SPECIFIC COUNCIL OFFICE; ELIMINATION OF REQUIREMENT FOR  
RUN-OFF ELECTION, AND RELATED MATTERS**

**Opened Public Comment**

Public Hearings on Adoption of Tentative Millage Rate  
Fiscal Year 2007-2008 Budget  
Regular Town Council Meeting  
September 10, 2007

None

**Closed Public Comment**

**MOTION:** Vice Mayor Kiker moved to adopt Resolution 07-34. Councilmember Shenko seconded the motion.

**MOTION:** Councilmember Acken made a **secondary motion** to change the ballot language, striking the existing language and to read: The Town Charter will be amended by removing Town Council candidates' requirement to seek election to specific seats, instead provide the Town Council candidate receiving the most votes to fill available seats and that a majority will no longer be required to attain office and there will be no runoff elections. Mayor Boback seconded the motion.

**MOTION:** Primary motion amended to delete the scrivener's error.

**MOTION:** Councilmember Acken moved to Table the amendment. Mayor Boback seconded the motion.

**VOTE:** (Motion to Table the amendment) Motion passes 4-1, with Councilmember Shenko dissenting.

**MOTION:** Councilmember Acken moved to table this item (adoption of Resolution 07-34). Motion was not seconded, however discussion ensued.

**VOTE:** Motion fails 3-2, with Councilmember Acken and Mayor Boback dissenting.

**VOTE:** (As to the main motion to adopt resolution 07-34) Motion passes 4-1, with Mayor Boback dissenting.

Administrative Agenda Item C: Preliminary Discussion of Sales Tax Proposal.

**MOTION;** Mayor Boback made a motion to table this item. Councilmember Meador seconded the motion.

**VOTE:** Motion passed 3-2 with Vice Mayor Kiker and Councilmember Acken dissenting.

**TOWN MANAGER'S ITEMS:**

None

**TOWN ATTORNEY'S ITEMS:**

Attorney Dalton referenced the item regarding the Town Council approaching Lee County Board of County Commissioners to defer the water rate increase.

**MOTION:** Councilmember Shenko moved to have Council approve what the water utility board approved. Seconded by Mayor Boback.

**VOTE:** Motion passed 4-1, with Councilmember Meador dissenting.

**COUNCILMEMBERS ITEMS AND REPORTS:**

Vice Mayor Kiker expressed his outrage at the news media blitz before attorney and council could confer and to the motion to table the sales tax proposal.

Councilmember Meador left the meeting at this time.

Councilmember Acken expressed his disappointment in having the sales tax item proposal tabled.

Councilmember Acken requested that the correct pronunciation of his last name be recognized.

Mayor Boback referred to comments by Vice Mayor Kiker regarding the sales tax proposal.

Vice Mayor Kiker requested that there be an end to the use of profanity.

**Opened Public Comment**

None

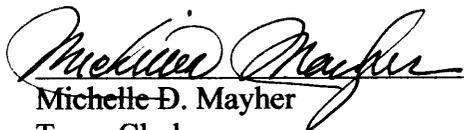
**Closed Public Comment**

**ADJOURNMENT:** Vice Mayor Kiker moved to adjourn. Councilmember Shenko seconded the motion.

The meeting adjourned at 12:58 AM (September 11, 2007)

Adopted 10-22-07 With/ Without Changes. Motion by Acken  
(Date)

Vote: 5-0

  
Michelle D. Mayher  
Town Clerk

- End of Document