

1. Discussion Objective:

Work Session Date: January 18, 2011

Gain a better understanding of the statutory reporting and other requirements applicable to independent special districts such as the Fort Myers Beach Public Library District as contained in Chapter 189 of the Florida Statutes. Become informed about the statutory provisions that are intended to ensure the accountability of special districts to state and local governments.

2. Submitter of Information:

- Council
- Town Staff
- Town Attorney

3. Estimated Time for this item:

One (1) hour

5. Background:

Chapter 189 of the Florida Statutes contains various provisions that relate to the creation and operation of independent special districts in the State of Florida. Those provisions are applicable to the Fort Myers Beach Public Library District and to any other independent special districts that are wholly or partially located within the boundaries of the Town of Fort Myers Beach. The stated purpose of Chapter 189, Florida Statutes is to provide for certain minimum standards of accountability designed to inform the public and appropriate general-purpose local governments of the status and activities of special districts. It is the intent of the Legislature that this public trust be secured by requiring each independent special district in the state to register and report its financial and other activities.

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director	Town Clerk
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TO: Town of Fort Myers Beach Town Council & Town Manager

FROM: James T. Humphrey

DATE: January 4, 2011

RE: Fort Myers Beach Public Library

As requested, we have reviewed the state statutes applicable to the Fort Myers Beach Public Library District. In 2002 the prior special laws relating to the District were codified and re-enacted into one act through the adoption of HB 1035. This codification was required by Section 189.429, Florida Statutes and with its adoption, all prior special laws relating to the District were repealed. Therefore, the 2002 Act is the comprehensive Special Act Charter for the Fort Myers Beach Public Library District (Library District), an Independent Special District.

The District is governed by a board consisting of seven (7) qualified electors who are elected by a vote of the electors of the Library District pursuant to the laws of Florida.

The District Board meetings are to be noticed and regulated in accordance with the Uniform Special District Accountability Act of 1989, Chapter 189, Florida Statutes.

The powers of the Library District Board as enumerated in the special act include in particular:

- The authority to buy, own, and maintain library facilities, equipment, books and supplies;
- To acquire property both real and personal, and any other property as the Board may deem necessary or proper in order to provide the residents within the Library District with the most complete library facilities as finances may permit; and
- To adopt an annual budget for the District.

It is important to add that as an Independent Special District, the Library Board's powers are limited to what was expressly granted in the Special Act or by necessary implication and should the Library Board act outside the scope of its delegated authority, such acts are invalid and of no force and effect.

The District Board can levy taxes on property within the District sufficient to meet the requirements of the adopted budget, with a maximum of one (1) mill being levied in any one year, and they can also impose non-ad valorem assessments as prescribed in Chapter 189, F.S. and any other applicable general or special law.

Considering the number of special districts created in Florida, the Legislature decided, through adoption of Chapter 189, F.S., to provide for accountability of special districts to both the state and local governments. Their intent was to:

- Improve communication and coordination between special districts and local governments with respect to ad valorem taxation, non-ad valorem assessment collection, special district elections and local government comprehensive planning;
- Have the operation of the District and the exercise of its powers be consistent with applicable due process, disclosure, accountability, ethics and government-in-the-sunshine requirements;
- Ensure long range planning, management and financing to include maintenance, upkeep and operation of the basic services being provided;
- Have independent special districts, in exercising their powers, comply with all applicable governmental comprehensive planning laws, rules and regulations;

The Legislature found that special districts are created to serve special public purposes, which is the situation with the Fort Myers Beach Public Library District, and such services are best secured by certain minimum standards of accountability designed to inform the public and the appropriate local governments of the activities of the special district.

The Legislature further stated that the reporting requirements set forth in Chapter 189 shall be the minimum level of cooperation necessary to provide services to the citizens in an efficient and equitable fashion.

In reviewing Chapter 189 together with the case law and Attorney General Opinions, I am of the opinion the following sections are applicable to the current actions being undertaken by the Library District.

In Section 189.415 titled “**Special District Public Facilities Report,**” it provides that each independent special district shall submit to each local general-purpose government in which it is located a public facilities report and an annual notice of any changes. “Public facilities” means major capital improvements which should include the new proposed library that will be located within the Town.

The public facilities report must include the following information:

- A description of existing public facilities owned or operated by the special district. This description shall include the current capacity of the facility, the current demands placed upon it, and its location. This information shall be required in the initial report and updated every 5 years thereafter.
- A description of each public facility the district is constructing, improving, or expanding, or is currently proposing to build, improve, or expand within at least the next 5 years. For each public facility identified, the report should describe

how the district currently proposes to finance the facility, as well as its operation and maintenance. [Emphasis added]

- If the special district currently proposes to replace any facilities within the next 10 years, the date when such facility is to be replaced.
- The anticipated time the construction, improvement, or expansion of each facility will be completed.
- The anticipated capacity of and demands on each public facility when completed. In the case of an improvement or expansion of a public facility, both the existing and anticipated capacity must be listed.

Section 189.418(7) further addresses the filing of the facilities report and provides that when the local governing authority is a county, the report is to be filed with the clerk of the Board of County Commissioners; when the local governing authority is a municipality, the report is to be filed at the place designated by the municipal governing body. **I recommend the Town Council notify the Library District that is requesting the public facilities report and that it has designated the Town Manager as the party to receive same.**

Section 189.417 addresses meetings of the District Board and requires them to file with the local governing authority or authorities quarterly, semiannually or annually a schedule of its regular meetings which schedule is to include the date, time, and location of each meeting.

Section 189.428 provides for an **Oversight Review Process** wherein each independent special district is to be reviewed by the local general-purpose government in which the district exists. The oversight review process is intended to contribute to informed decision making. These decisions may involve improving the functions or delivery of services by the district. It is also the intent that any oversight review process be conducted in conjunction with the district's public facilities reporting. Section 189.428(b) provides that where the district serves an area greater than the boundaries of one general-purpose local government then the review is to be accomplished by the County on the County's own initiative or upon receipt of a request from the municipality.

Those conducting the oversight review process shall, at a minimum, consider the listed criteria for evaluating the special district, but may also consider any additional factors relating to the district and its performance. The criteria to be considered by the reviewer includes:

- The degree to which the service or services offered by the special district are essential or contribute to the well-being of the community.
- The extent of continuing need for the service or services currently provided by the special district.
- The extent of municipal annexation or incorporation activity occurring or likely to occur within the boundaries of the special district and its impact on the delivery of services by the special district.

- Whether there is a less costly alternative method of delivering the service or services that would adequately provide the district residents with the services provided by the district.
- Whether transfer of the responsibility for delivery of the service or services to an entity other than the special district being reviewed could be accomplished without jeopardizing the district's existing contracts, bonds, or outstanding indebtedness.
- Whether the special district has failed to comply with any of the reporting requirements in Chapter 189, including preparation of the Public Facilities Report.
- Whether the special district has designated a registered office and agent as required by S. 189.416, and has complied with all open public records and meeting requirements.

I recommend you consider authorizing me to present this Memorandum to the Library District Board and then request that a joint session between Town Council and the District Board be held to discuss the scope of the proposed project, its financing, operations, and maintenance. I would request the Mayor and Town Manager accompany me to the District Board's meeting.