

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 11-22

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH **APPROVING** THE PETITION OF THE TOWN OF FORT MYERS BEACH PUBLIC WORKS SERVICES, INC. FOR AN ADJUSTMENT IN WATER CHARGES TO WATER UTILITY CUSTOMERS OF THE TOWN OF FORT MYERS BEACH TO INCREASE RETAIL POTABLE WATER RATES IN AN AMOUNT THAT IS EQUAL TO THE LEE COUNTY WHOLESALE WATER RATE INCREASES THAT HAVE BEEN APPROVED BY LEE COUNTY; PROVIDING AN EFFECTIVE DATE.

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 with the Town on September 26, 2011, 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 for Rate Adjustment at the meeting on November 7, 2011 which started at 9:00 am with the actual hearing commencing shortly after 9:00 am on that date; 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. *Determination of Request for Rate Adjustment.* The Town Council of the Town of Fort Myers Beach hereby approves a rate increase in the amount of twenty-six (26) centers per one thousand (1,000) gallons for each Block Rate for all water utility customers. This adjustment represents an increase that is equivalent to the increase in the wholesale (bulk) water rate recently approved by Lee County, as set forth in the Petition. The Town Council finds that this increase is in the best interest of the Town citizens.

Section 3. *Amount of Retail Water Rate Following Rate Increase.* Following the rate increase approved in Section 2 above, the new retail water rate for all water utility customers will be:

*Block 1 \$5.06 per 1,000 gallons*

*Block 2 \$6.06 per 1,000 gallons*

*Block 3 \$7.06 per 1,000 gallons*

*Block 4 \$8.06 per 1,000 gallons*

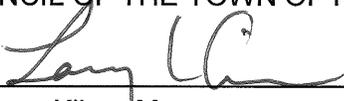
Section 3. *Effective Date.* This Resolution shall take effect on November 9, 2011.

A motion to approve this Resolution was made by Councilmember Kosinski and seconded by Councilmember Mandel and upon being put to a vote, the result was as follows:

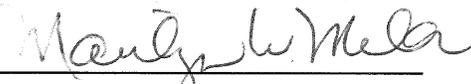
Larry Kiker, Mayor	aye
Robert Raymond, Vice-Mayor	aye
Jo List	aye
Alan Mandel	aye
Joe Kosinski	aye

ADOPTED ON THE 7<sup>th</sup> DAY OF NOVEMBER 2011.

TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By:   
Larry Kiker, Mayor

Approved as to legal sufficiency:

By:   
Town Attorney

Attest:

By:   
Michelle D. Mayher, Town Clerk