

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 07-10

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, PRESENTING A REFERENDUM QUESTION REGARDING FINANCING RELATED TO THE WATER UTILITY OPERATED BY THE FORT MYERS BEACH PUBLIC WORKS AGENCY, INC. A NOT FOR PROFIT CORPORATION; SETTING FORTH PURPOSE, APPROVAL BY MAJORITY, REQUIREMENTS OF LAW, POLLING PLACES AND CONDUCT OF ELECTION; AUTHORIZATION OF TOWN COUNCIL OR DESIGNEES; BALLOTS; NOTICE OF ELECTION; AND 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 Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, Section 11.03 of Article XI of the Town Charter provides that, unless authorized by the electors of the Town at a duly held referendum election, the Council shall not authorize or allow to be authorized various financing mechanisms as set forth fully therein if the repayment thereof exceeds thirty-six months; and

WHEREAS, on November 20, 2006, the Town Council passed Ordinance 06-20 authorizing the submission of a referendum question to the Town electorate at the election in March, 2007, regarding acquisition of financing in excess of 36 months for the water utility owned by the Town of Fort Myers Beach Public Works Services, Inc., a not for profit corporation.

IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section One. Whereas Clauses The above "Whereas" recitals are incorporated herein by reference.

Section Two. Purpose. A referendum election is hereby ordered and called for the purpose of submitting to the qualified electors of the Town of Fort Myers Beach, Lee County, Florida, the question of approval of acquisition of financing as set forth in detail elsewhere in this Resolution, pursuant to the requirements of Section 11.03 of Article XI of the Town Charter.

Section Three. Approval by Majority. The referendum question shall be implemented if approved by a majority of the qualified electors of the Town voting on such question in the election to be held on March 13, 2007.

Section Four. Requirements of Law. Said referendum election shall be conducted according to the requirements of the Florida Election Laws. The Supervisor of Elections of Lee County, Florida is hereby directed to present the ballot question set forth below to the voters of Fort Myers Beach, Florida and to hold the referendum election thereon on the general election day of March 13, 2007.

Section Five. Polling Places and Conduct of Elections. The referendum election shall be held at the polling places duly designated by the Supervisor of Elections of Lee County, Florida and conducted by election officials duly appointed by applicable General Law. The hours of election, absentee voting, canvassing, delivery of ballots and publication of notice of the referendum question shall be as provided by the requirements of law.

Section Six. Authorization of Town Council or Designees. . The Town Council or its designees are hereby authorized to take all those actions necessary in order that this referendum question are properly placed on the ballot for the general election of March 13, 2007.

Section Seven. Ballot. The ballot to be used in said referendum shall be in the form as provided by law and shall contain the question to be voted upon pursuant to Town Ordinance 06-20. Said question shall be in substantially the following form:

TITLE: Acquisition of Financing in Excess of 36 Months

SUMMARY: Is the Town Council authorized to obtain financing or extend the existing financing in excess of 36 months in connection with the refinancing of the purchase of the water utility operated by the Town of Fort Myers Beach Public Works Services, Inc. and for the purpose of providing for capital improvements necessary in connection with the operation and maintenance thereof?

Yes, For Approval _____
No, For Rejection _____

Section Eight. Notice of Election. The publication of notice of this referendum shall be made in a newspaper of general circulation within Lee County and the first publication shall be at least 30 days prior to the 13th day of March, 2007. The publication shall be made at least twice; once in the fifth week and once in the third week prior to the week in which the referendum is to be held.

Section Nine. Effective Date. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Shenko and seconded by Council Member Reynolds and, upon being put to a vote, the result was as follows:

Dennis Boback , Mayor aye
Don Massucco, Vice Mayor aye
Charles Meador, Jr. aye
Garr Reynolds aye
William Shenko, Jr. aye

DULY PASSED AND ADOPTED this 5th day of February, 2007.

ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Michelle D. Mayher, Town Clerk

By: 
Dennis C. Boback, Mayor

Approved as to legal sufficiency by:


Anne Dalton, Town Attorney