

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 08-09

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING THE TOWN CLERK TO AMEND THE TOWN CHARTER TO INCORPORATE THE RESULTS OF THE REFERENDUM HELD ON JANUARY 29, 2008, REGARDING REPEAL OF REQUIREMENT OF MAJORITY VOTE; REPEAL OF QUALIFICATION FOR SPECIFIC COUNCIL SEAT; REPEAL OF REQUIREMENT OF RUN-OFF ELECTION; DECLARATION; 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, the Town Charter of the Town of Fort Myers Beach, Florida was adopted as Chapter 95-494, Laws of Florida; and 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 13.01 of Article XIII of the Town Charter provides that the Council may, by ordinance, propose amendments to the Charter with such ordinance(s) to be submitted to the electors, as provided by general law; and

WHEREAS, the Town Council of the Town of Fort Myers Beach passed Ordinance 07-06 and Resolution 07-34 calling for a referendum election for the purpose of submitting to the qualified electors of the Town, the question of approval of an amendment to the Town Charter regarding the repeal of the requirement of majority vote for election of councilmembers; repeal of qualification for a specific council seat; and related matters, as permitted by the Charter and as set forth with specificity below; and

WHEREAS, Town Resolution 08-05 certified that the aforesaid Referendum was approved by the electors on January 29, 2008, and further provided that the charter was so amended.

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

SECTION ONE. Whereas Clauses The above "Whereas" recitals are incorporated herein by reference.

SECTION TWO. Amendment to Section 4.01(b) of Article IV of Town Charter. The Town Clerk is hereby directed to insert the following amendment as Section 4.01(b) of Article IV of the Town Charter:

Section 4.01(b). Council seats shall be designated as seats #1, #2, #3, #4, and #5. Candidates shall not be required to seek election to a specific seat on the council. All qualified candidates shall be deemed to be seeking election to all open council seats. Assignment of open seat numbers shall be alphabetically by incoming Council members' last names.

SECTION THREE. Amendment to Section 5.01 of Article V of Town Charter. The Town Clerk is hereby directed to insert the following amendment as Section 5.01 of Article V of the Town Charter:

Section 5.01. The regular election of the members of the council shall be held on the second Tuesday in March. ~~If necessary, a runoff election will be held on the second Tuesday in April.~~ The time period that candidates must qualify shall be from noon of the 50th day prior to the second Tuesday in March to noon of the 46th day, or as adjusted by a holiday or leap year.

SECTION FOUR Amendment to Section 5.07 of Article V of Town Charter. The Town Clerk is hereby directed to insert the following amendment as Section 5.07 of Article V of the Town Charter:

Section 5.07. In the event that more ~~than two~~ candidates qualify for election ~~than there are open council seats, to a single office,~~ those candidates shall participate in the regular election and the candidate or candidates receiving a majority of the most votes cast shall be elected to the open council seat or seats. ~~If no candidate receives a majority, then the two candidates receiving the most votes shall participate in a runoff election established in Section 5.01 to decide the winner for that office.~~”


SECTION FIVE. Transmission to Florida Department of State, Division of Library and Information Services. The Town Clerk is hereby directed to file a copy of the Town Charter as amended herein with the Florida Department of State, Division of Library and Information Services as soon as possible.


SECTION SIX. Effective Date. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach, Florida. Nothing contained herein, however, shall supercede the requirements of Town Ordinance 07-05 regarding the Town general election scheduled for April 8, 2008.

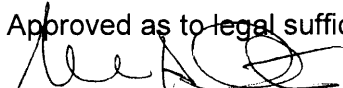
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon motion by Councilmember Meador and second by Councilmember Shenko and being put to a vote, the result was as follows:

Dennis Boback, Mayor aye Larry Kiker, Vice Mayor aye
Herb Acken, Councilmember aye Charles Meador, Jr., Councilmember aye
William Shenko, Jr., Councilmember aye

APPROVED THIS 19th DAY OF FEBRUARY, 2008.

ATTEST:
By: 
Michelle D. Mayher, Town Clerk

TOWN OF FORT MYERS BEACH
By: 
Dennis C. Boback, Mayor

Approved as to legal sufficiency and form by:

Anne Dalton, Town Attorney