

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 09-32

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 ALL RATES AND FEES CHARGED FOR WATER SERVICE WITHIN THE TOWN OF FORT MYERS BEACH, FLORIDA.

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 and Related Relief with the Town on September 21, 2009, 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 at the meeting on November 16, 2009 which started at 6:30 pm with the actual hearing commencing shortly after 7:20 pm 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. Goals and Objectives. The Town Council hereby declares its goals and objectives in granting this rate adjustment to PWSI are as follows:

- a. To establish rates that meet the projected expenditure requirements of the utility system in order to maintain sound financial operations, debt requirements and to fund the anticipated capital needs of the system; and
- b. To establish rates and charges which are just and equitable among customer classes; and
- c. To minimize "rate shock" to customers if possible; and
- d. To promote the conservation of utility resources; and
- e. To establish adequate reserves for emergencies and foreseeable and unforeseen capital needs.

Section 3. Approval of the Suggested Findings of Fact and Recommendations in the Water Rate and Charges Study. The Town Council finds that the suggested findings of fact and recommendations contained in the Water Rate and Charges Study dated July 3, 2009, as performed by the Florida Rural Water Association and attached to the PWSI Petition as Exhibit "B", **are true and correct in all material terms and hereby approves and adopts them**, except as modified in this Resolution.

Section 4. Approval of Suggested Findings of Fact set forth in the Petition filed by Town of Fort Myers Beach Public Works Services, Inc. In addition to other findings of fact set forth elsewhere in this Resolution, the Town Council finds that the following statements of fact alleged in the Petition are true and correct:

- (a) If the adjustments to rates, charges and fees set forth elsewhere in this Resolution are not made, PWSI will remain out of compliance with its loan covenant; and
- (b) If the adjustments to rates, charges and fees set forth elsewhere in this Resolution are not made, PWSI will deplete its capital reserves within Fiscal Year 2009/2010. PWSI has previously been advised of the poor condition of the utility lines and other portions of the utility, and the Town Council finds that it is critical to retain as much of the capital reserves as possible for emergency repairs to the system; and
- (c) The adjustment to utility rates, charges and fees set forth elsewhere in this Resolution meets the projected expenditure requirements of the utility system in order to maintain sound financial operations and debt requirements and to fund the anticipated capital needs of the system; and
- (d) The adjustment to utility rates, charges, and fees set forth elsewhere in this Resolution will be equitable among customer classes, and such adjustments will

promote the conservation of utility resources and maintain adequate reserves for emergencies and unforeseen capital expenditures.

Section 5. Determination of Request for Increase in Water Utility Rates, Fees and Charges. The Town Council of the Town of Fort Myers Beach hereby grants a rate increase to all rates, charges and fees, including but not limited to user fees, administration fees, trip charges, connection fees, tap fees, fire line service charges, creation of reserves for emergency and capital improvement purposes, and administrative fees (collectively "fees"). The increase is approved to include:

- (a) a twenty-three (23%) percent increase on the cost per one thousand (1,000) gallons, billed using a modified block rate schedule; and
- (b) a ten (10%) percent base rate increase in conjunction with a per-unit base rate charge for Multi-Family accounts; and
- (c) the amount of two dollars and seventy-two cents (\$2.72) added to the base rate charge per single family and multi-family unit, and two dollars and seventy-two cents (\$2.72) times the ERU equivalents for commercial accounts, to fund annual capital and emergency reserves of approximately \$300,000; and
- (d) a twenty-three (23%) percent increase to all other system fees and charges as requested in the Petition. The Town Council finds that this increase is in the best interest of the Town utility customers and citizens.

Section 6. Rates, Fees and Charges for Water Utility Service as of January 1, 2010. The rates, fees and charges for water utility service within the Town shall be as follows, effective January 1, 2010:

A. SYSTEM CONNECTION FEES

<u>CLASSIFICATION</u>	<u>No. ERU's</u>	<u>NEW CHARGE</u>
Residential Service		
Single-Family	1	\$ 1,254.60
Multi-Family (per Dwelling Unit)	1	\$ 1,003.60
Recreational Vehicle (per Dwelling Unit/Lot)	.4	\$ 501.84
Commercial Service and All Non-Residential Services:		
<u>Meter Size</u>		
5/8"	1	\$ 1,254.60
3/4"	1.5	\$ 1,881.90
1"	2.5	\$ 3,136.50
1.5"	5	\$ 6,273.00
2"	8	\$ 10,036.80
3"	16	\$ 20,073.60
4"	25	\$ 31,364.00
6"	50	\$ 62,730.00
8"	80	\$100,368.00
10"	145	\$181,917.00

Exception: If a general service connection serves living units such as hotel, motel, or timeshare, etc., with efficiency units that include a kitchen or kitchenette and/or laundry facilities, the connection charge shall be the higher of the fee from the meter size schedule above or the number of dwelling units based on the multi-family ERU equivalent.

B. METER INSTALLATION FEES:

Meter Size

5/8"	\$153.75, or actual cost, whichever is higher
3/4"	\$178.35, or actual cost, whichever is higher
1"	\$239.85, or actual cost, whichever is higher
1.5"	\$504.30, or actual cost, whichever is higher
2"	\$688.80, or actual cost, whichever is higher
3" and above	Actual Cost

In addition to new installations, the appropriate rate listed above may also apply to water service upgrades or facility relocations. Charges for larger meter taps shall be based on estimates of actual time and expense. Amounts collected in excess of actual costs shall be credited to the customer's account or refunded, as applicable. Amounts due, caused by underestimation, shall be billed and payable by the customer within (10) days.

C. TAP-IN CHARGES:

<u>Meter Size</u>	
5/8"	\$ 578.10, or actual cost, whichever is higher
3/4"	\$ 602.70, or actual cost, whichever is higher
1"	\$ 688.80, or actual cost, whichever is higher
1.5"	\$1,045.50 or actual cost, whichever is higher
2"	\$1,217.70 or actual cost, whichever is higher
3" and above	Actual Cost

In addition to new installations, the above rate may also apply to water service upgrades or facility relocations. Charges for larger meter taps shall be based on estimates of actual time and expense. Amounts collected in excess of actual costs shall be credited to the customer's account or refunded, as applicable. Amounts due, caused by underestimation, shall be billed and payable by the customer within (10) days.

D. PREMISE VISIT

(Trip Charge)	\$31.37
Weekend	\$45.90

Includes charges for meter re-reads and special reads, customer requested meter test, and any specific activities where a trip to the customer's premises is requested by the customer or as required by the Public Works Services, Inc. Upon written request of any customer, the Public Works Services, Inc. shall, without charge, make a field test for accuracy of the water meter in use at customer's premises, provided that meter has not been tested within the past twelve (12) months.

E. TURN-ON/TURN-OFF CHARGE

	During Normal Working Hours	After Normal Working Hours
Customer Request	\$43.05	\$55.35
Re-connection of Service (non-payment disconnection)	\$49.20	\$67.65

F. PLAN REVIEW FEES

One (1%) percent of the construction cost or \$664.20, whichever is higher.

G. FIRE SERVICE CHARGES

Meter Size

(Based on largest diameter meter installed for fire protection.) Yearly amount.

5/8"	\$ 2.34
3/4"	\$ 3.51
1"	\$ 4.85
1 1/2"	\$ 11.75
2"	\$ 18.76
3"	\$ 37.52
4"	\$ 58.61
6"	\$117.22
8"	\$187.58
10"	\$269.62

H. CUSTOMER DEPOSIT

Residential Service:	
Single-Family	\$ 55.35
Multi-Family (per Dwelling Unit)	\$ 44.28
Recreational Vehicle (per Dwelling Unit/Lot)	\$ 30.75

Commercial Service and all Non-Residential Services:

Meter Size	
5/8"	\$ 55.35
3/4"	\$ 82.41
1"	\$ 141.45
1.5"	\$ 276.75
2"	\$ 442.80
3"	\$ 885.60
4"	\$1,383.75
6"	\$2,767.50
8"	\$4,428.00
10"	\$8,028.75

The above deposit amounts are minimums. Additional deposit amounts may be required in order to secure payment of current bills and/or in an amount equal to the average of four months billing, whichever is higher.

I. WATER DELIVERED AND MEASURED BY METER AND MONTHLY BASE RATE:

Block Rate Gallons Charge/1,000 Gallons				
	Block 1	Block 2	Block 3	Block 4
	\$4.80	\$5.80	\$6.80	\$7.80
Customer Rate Blocks (Gallons)				
Customer Classification	Block 1	Block 2	Block 3	Block 4
Single Family Residential, Multi-Family Residential Per Unit	0 – 6,000	6,001 – 30,000	30,001 – 50,000	Above 50,000
Commercial, Irrigation, Non-Residential				

5/8"	0 - 8,000	8,001 - 30,000	30,001 - 60,000	Above 60,000
1"	0 - 9,000	9,001 - 40,000	40,001 - 60,000	Above 60,000
1 1/2"	0 - 12,000	12,001 - 45,000	45,001 - 65,000	Above 65,000
2"	0 - 15,000	15,001 - 50,000	50,001 - 70,000	Above 70,000
3"	0 - 50,000	50,001 - 100,000	100,001 - 400,000	Above 400,000
4"	0 - 60,000	60,001 - 300,000	300,001 - 500,000	Above 500,000
6"	0 - 70,000	70,001 - 400,000	400,001 - 600,000	Above 600,000
8"	0 - 90,000	90,001 - 500,000	500,001 - 700,000	Above 700,000
10"	0 - 150,000	150,001 - 600,000	600,001 - 800,000	Above 800,000

Monthly Base Rate			
Charge Code	Meter Size	Base Charge	Capital Reserves
Single Family Residential, Multi-Family Residential			
1, 12 - 17		\$6.82 per unit	\$2.72 per unit
Commercial			
2	5/8"	\$ 9.30	\$ 2.72
	3/4"	\$ 12.71	\$ 3.88
3	1"	\$ 19.53	\$ 6.80
4	1.5"	\$ 36.85	\$ 13.60
5	2"	\$ 57.04	\$ 21.86
6	3"	\$111.50	\$ 44.12
7	4"	\$172.98	\$ 68.10
	6"	\$343.51	\$136.00
	8"	\$548.08	\$217.60
	10"	\$991.38	\$394.40
Irrigation			
8	5/8"	\$ 9.30	\$ 2.72
9	1"	\$19.53	\$ 6.80
10	1.5"	\$36.85	\$13.60
11	2"	\$57.04	\$21.86

In addition, each residential, non-residential and commercial account will be charged a monthly administrative fee of \$2.77 and a late fee of 1% or six dollars and twenty five cents (\$6.25), whichever is the greater, if payment is not received by the due date.

SECTION 7. Rates, Fees and Charges are Fair and Just. The Town Council finds that the rates, fees and charges which will take effect on January 1, 2010, as set forth elsewhere in this Resolution, are just and equitable rates and charges pursuant to the requirements of Section 180.13(2), Florida Statutes and accomplish the Town goals and objectives set forth in Section 2 above.

SECTION 8. Segregation of Capital Reserves Into Restricted Account. The Town Council hereby directs PWSI to segregate all funds collected for capital reserves in a separate and restricted account to be used solely for capital purposes and not for day-to-day water system operations and maintenance.

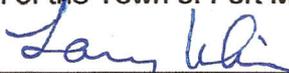
SECTION 9. Effective Date. This resolution shall be effective immediately; however, the rates and charges specified above shall take effect on January 1, 2010.

The foregoing Resolution was adopted by the Fort Myers Beach Town Council upon a motion by Councilmember Babcock and a second by Councilmember Raymond, with the vote as follows:

Herb Acken	<u>aye</u>	Tom Babcock	<u>aye</u>
Larry Kiker	<u>aye</u>	Jo List	<u>aye</u>
Bob Raymond	<u>aye</u>		

DULY ADOPTED THIS 16th day of November, 2009.

Town Council of the Town of Fort Myers Beach

BY: 
Larry Kiker, Mayor

Approved as to legal sufficiency:

By: 
Anne Dalton, Esquire
Town Attorney

ATTEST:

By: 
Michelle D. Mayher, Town Clerk

