

**1. Requested Motion:**

**Meeting Date: November 5, 2012**

Adopt Ordinance No. 12-08, approving the potable water rate adjustment to reflect the increase to the wholesale water rate increase being imposed by Lee County Utilities, effective November 15, 2012.

**Why is this action necessary:**

Florida Statute 180.13(1) states that the Town Council has the jurisdiction to review, consider and approve rates and charges prior to their implementation.

**What the action accomplishes:**

The Ordinance approves the rate adjustment effective November 15, 2012.

**2. Agenda:**

- Consent  
 Administrative

**3. Requirement/Purpose:**

- Resolution  
 Ordinance  
 Other:

**4. Submitter of Information:**

- Council  
 Town Staff – Public Works  
 Town Attorney

**5. Background:**

The Lee County BOCC approved a wholesale water rate increase at a public hearing held on August 9, 2012. The wholesale water rate will increase by six percent (6%) from \$3.46 to \$3.67 per thousand gallons effective November 15, 2012.

Proper public notification regarding this rate adjustment was achieved via an insert into the monthly water billing, notice posted on the Town web site and publication of the hearing placed in the local paper.

Back ground and supporting documentation is attached as follows:

- Public Notice sent with monthly billing
- Notarized affidavits confirming the public notice sent with billings
- Legal advertisement
- Ordinance 12-08

To date, no correspondence has been received associated with the hearing.

At the request of Council, also attached is a preliminary revenue sufficiency letter from GAI, the Town's rate analyst.

**6. Alternative Action:**

Do not approve the rate increase.

**7. Management Recommendations:**

Staff recommends approval.

**8. Recommended Approval:**

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Parks and Recreation Director	Town Clerk
						

**9. Council Action:**

- Approved     Denied     Deferred     Other

TOWN OF FORT MYERS BEACH, FLORIDA  
NOTICE OF INTENT TO HOLD A PUBLIC HEARING TO CONSIDER  
AN INCREASE IN POTABLE WATER UTILITY RATES

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN THAT ON THE 5<sup>TH</sup> OF NOVEMBER, 2012, AT 9:00 A.M. IN THE COUNCIL CHAMBERS AT TOWN HALL, 2523 ESTERO BOULEVARD, FORT MYERS BEACH, FLORIDA 33931, the Town Council of the Town of Fort Myers Beach, Florida will consider approval of an Ordinance to increase Town water rates to pass along those certain wholesale (bulk) water rate increases approved by Lee County in the amount of twenty-one (21) cents per one thousand (1,000) gallons to each Block rate, to all customers of the Town potable water utility. This rate increase was brought forward by Town staff upon receipt of notification from Lee County Utilities, and acted on by the Town Council at their September 4, 2012 meeting. The captioned title of the proposed Town Ordinance is as follows:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AN INCREASE IN POTABLE WATER RATES FOR POTABLE WATER UTILITY CUSTOMERS OF THE TOWN OF FORT MYERS BEACH BY AN AMOUNT THAT IS EQUAL TO THE AMOUNT OF THE LEE COUNTY WHOLESALE WATER RATE INCREASE APPROVED BY LEE COUNTY; PROVIDING AN EFFECTIVE DATE.

1. Copies of this Notice and the Proposed Ordinance are on file with the Town Clerk, Town Hall, Second Floor, 2523 Estero Boulevard, Fort Myers Beach, FL 33931. The public may inspect or copy the Ordinance and all other official documents with regard to this matter during regular business hours at Town Hall.

2. Interested parties may appear at the hearing in person or through counsel, and may be heard with respect to the adoption of the proposed Ordinance.

3. Any affected rate payer may protest the proposed rate increase by filing a written protest with the Town Manager prior to or at the hearing of the Town Council and registering such protest.

4. Anyone wishing to appeal the decision(s) made by the Town Council with respect to any matter considered at this hearing will need a record of the proceedings for such appeal, and may need a verbatim record, to include all testimony and evidence upon which the appeal is to be based.

5. The Ordinance shall take effect immediately upon its adoption by the Town Council at the public hearing. However, in the event that the Town Council approves an increase in the Town potable water rates, such increase will take effect on November 6, 2012.

6. If you have a disability that will require special assistance or accommodations for your attendance at the public hearing, please call the Town Manager at (239) 765-0202 for information.

The text of this Notice is in conformance with relevant sections of Florida Statute and other relevant sections of Florida law.

TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA

BY:

  
MICHELLE D. MAYHER, TOWN CLERK

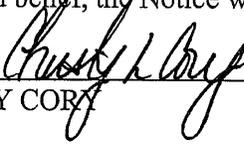
APPROVED AS TO FORM:

  
TOWN ATTORNEY

Affidavit of Public Notice

Before the undersigned authority, personally appeared Christy Cory, who being first sworn, hereby states as follows:

1. I am the Business Office Manager for Woodard and Curran, Inc., a Florida corporation (W&C);
2. W&C is under contract with the Town of Fort Myers Beach Public Works Services, Inc. (PWSI), to provide Operations and Maintenance Services to the Town water utility;
3. as part of its services to PWSI, W & C is responsible for billing all PWSI utility customers on a monthly basis;
4. W & C contracts this billing obligation to AVR, Inc., a Florida Corporation;
5. in my official capacity as Business Officer Manager, I received from PWSI the Notice of Public Hearing (attached to this Affidavit as Exhibit A) regarding a proposed rate increase and forwarded same on to AVR on September 25, 2012 with instructions to AVR to include a copy of the Notice in the billing mailed to each customer of the water utility through the utility's billing process for the service period from August 15, 2012 to September 15, 2012;
6. to the best of my knowledge and belief, the Notice was so included by AVR.

  
CHRISTY CORY

Sworn to and subscribed before me this 23<sup>rd</sup> day of October, 2012 by Christy Cory, personally known to me or who has produced Driver's License as identification.

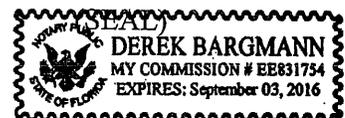
  
DEREK BARGMANN

Print Name: Derek Bargmann

Notary Public - State of Florida

Commission No.: EE831754

My Commission Expires: September 3, 2016



Affidavit of Public Notice

Before the undersigned authority, personally appeared Dixie Nelson, who being first sworn, hereby states as follows:

1. I am the Operations Manager, for AVR, Inc., a Texas corporation, which is a contractor to Woodard and Curran (W & C).
2. W&C is under contract with the Town of Fort Myers Beach Public Works Services, Inc. (PWSI), to provide Operations and Maintenance Services to the Town water utility.
3. As contractor to W & C, AVR, Inc. is responsible for billing all PWSI utility customers on a monthly basis and maintain current billing addresses for such customers for this purpose.
4. In my official capacity as Operations Manager I received from W & C the Notice of Public Hearing (attached to this Affidavit as Exhibit A) regarding the proposed rate increase, with instructions to include a copy of the Notice in the billing mailed to each customer of the water utility through the utility's billing process for the service period from August 13, 2012 to September 13, 2012.
5. This notice was included in all billings mailed to customers in the normal course of business. Such billings were mailed on October 1<sup>st</sup>, 2012.

Dixie Nelson

Sworn to and subscribed before me this 2<sup>nd</sup> day of October, 2012 by

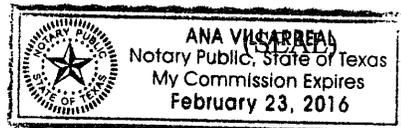
Dixie Nelson, personally known to me or who has produced drivers license as identification.

Ana Villarreal  
Print Name: Ana Villarreal

Notary Public -

Commission No.: \_\_\_\_\_

My Commission Expires: 02/23/16



## NOTICE OF PUBLIC HEARING

Notice is hereby given that the Town Council of the Town of Fort Myers Beach will hold a public hearing at a meeting beginning at **9:00AM on November 5, 2012** regarding the ordinance listed below.

### **ORDINANCE 12-08**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AN INCREASE IN POTABLE WATER RATES FOR POTABLE WATER UTILITY CUSTOMERS OF THE TOWN OF FORT MEYRS BEACH BY AN AMOUNT THAT IS EQUAL TO THE AMOUNT OF THE LEE COUNTY WHOLESALE WATER RATE INCREASE APPROVED BY LEE COUNTY; PROVIDING AN EFFECTIVE DATE.**

Notice is also given that the Town Council of the Town of Fort Myers Beach will hold a public hearing at a meeting beginning at **9:00 AM on November 5, 2012** regarding the case listed below. This hearing will take place in the council chambers at Fort Myers Beach Town Hall, 2523 Estero Boulevard Fort Myers Beach, Florida, 33931.

You may appear in person, through counsel, or through an authorized agent and provide testimony, legal argument, or other evidence to become a participant in these hearings.

If any person should choose to appeal a decision made at these public hearings, such person would need a record of the proceedings, and for that purpose may need to ensure that a verbatim record of the proceedings is made, which record indicates the testimony and evidence upon which the appeal is to be based.

Copies of the agenda and full staff report are available at Fort Myers Beach Town Hall. Call 239-765-0202 for more information. Town Hall is open between the hours of 8:30 AM and 4:30 PM. Reasonable accommodations will be made in accordance with the Americans with Disabilities Act. If you are in need of reasonable accommodation, contact Town Hall at 239-765-0202.

Case Number: REZ2012-0001  
Case Name: 110 Mango Rezoning  
Applicant: Marylu Czulewicz  
Request: Rezone 0.126 acres from Residential Multifamily (RM) to Commercial Boulevard (CB).  
Location: 110 Mango Street, Fort Myers Beach, Florida 33931  
Staff Report: Direct inquiries to:  
Josh Overmyer, Planning Coordinator, at 239-765-0202 ext 115  
Fort Myers Beach Town Hall  
2523 Estero Boulevard  
Fort Myers Beach, FL 33931

  
Michelle D. Mayher  
Town Clerk

ORDINANCE OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
ORDINANCE NUMBER 12-08

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AN INCREASE IN POTABLE WATER RATES FOR POTABLE WATER UTILITY CUSTOMERS OF THE TOWN OF FORT MYERS BEACH BY AN AMOUNT THAT IS EQUAL TO THE AMOUNT OF THE LEE COUNTY WHOLESALE WATER RATE INCREASE 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, following due and proper notice as required by Florida Statute Section 180.136, the Town Council held a public hearing to consider a potable water rate increase at the Town Council meeting on November 5, 2012; and

WHEREAS, at said hearing, the Town Council 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 authorized 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 ORDAINED 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 Ordinance.

Section 2. *Approval of Rate Increase.* The Town Council of the Town of Fort Myers Beach hereby approves a potable water rate increase in the amount of twenty-one (21) cent per one thousand (1,000) gallons for each Block Rate for all potable 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:

<i>Block 1</i>	<i>\$5.27 per 1,000 gallons</i>
<i>Block 2</i>	<i>\$6.27 per 1,000 gallons</i>
<i>Block 3</i>	<i>\$7.27 per 1,000 gallons</i>
<i>Block 4</i>	<i>\$8.27 per 1,000 gallons</i>

Section 4. *Severability.* If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held as invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance.

Section 5. *Effective Date.* This Ordinance shall take effect on November 15, 2012.

A motion to approve this Ordinance was made by Councilmember \_\_\_\_\_ and seconded by \_\_\_\_\_ and upon being put to a vote, the result was as follows:

Bob Raymond, Mayor	_____
Alan Mandel, Vice-Mayor	_____
Jo List	_____
Joe Kosinski	_____
Dan Andre	_____

ADOPTED ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012.

TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By: \_\_\_\_\_  
Bob Raymond, Mayor

Approved as to legal sufficiency:

Attest:

By: \_\_\_\_\_  
Town Attorney

By: \_\_\_\_\_  
Michelle D. Mayher, Town Clerk



October 18, 2012  
GAI Project #A120244.00

VIA EMAIL

Ms. Evelyn Wicks, Director of Finance  
Town of Fort Myers Beach  
2523 Estero Boulevard  
Fort Myers Beach, FL 33931

### **Initial Analysis of Town of Fort Myers Beach Water Rates for Fiscal Year 2013**

Dear Ms. Wicks:

At the Water Rate Study (Study) Kick-Off meeting, held on September 26, 2012, with the Town of Fort Myers Beach (Town), GAI Consultants, Inc. (GAI) was asked to provide, in addition to the full Study, an initial analysis of the Town's water utility (Utility) revenue sufficiency for the current fiscal year. This request was made so that if GAI anticipated the need for an additional rate increase in the current fiscal year, the Town's customers, most notably condominium associations, could reflect any anticipated rate increase in their budgets for the upcoming year.

Revenue sufficiency is defined as the amount of revenue necessary to meet all of the Town's Utility revenue requirements. The Town's Utility revenue requirements include operations and maintenance expenses, debt service payments and capital expenses.

In evaluating the Town's revenue sufficiency for Fiscal Year 2013 (FY 2013), GAI analyzed the Town's 2013 approved budget for the Utility. GAI utilized historic trends, knowledge of Utility finances, and discussions with Town staff to analyze the FY 2013 budget.

As approved, the Town has a balanced budget for FY 2013 of \$3,848,600. GAI entered historic data, the FY 2013 approved budget, detailed billing data, and the Town's current 5-year CIP plan into our rate model (Model). The purpose of entering the data into the Model is to ultimately develop a 5-year financial forecast for the Town which includes the ability to look at various water rate scenarios. The Model uses the Town's FY 2013 budget, along with appropriate adjustments, as the base year for the projection period.

Some of the adjustments made to determine the appropriate base year include: employing a reliability factor to the Utility revenue stream (accounts for collections less than anticipated), removing certain non-cash items (such as depreciation) and adjusting base year expenses to reflect a "normalized" year. In addition, the Town's CIP plan, which calls for \$2,900,000 of capital improvements for FY 2013, is taken into consideration.

In analyzing the initial results for the FY 2013 time frame, GAI finds that the Utility should be revenue sufficient. That is, outside of extreme conditions, GAI would expect the Town to be able to fund its budgeted operations and maintenance expenses, existing debt service, repair and replacement program, and take out debt service for the FY 2013 capital improvement program (assuming ½ year convention for payments) without the need for a rate increase. One of the things that could happen, which would call for a reevaluation of the initial year revenue sufficiency, is if the Town's wholesale water supplier instituted a large increase to the Town's wholesale rates. This type of large wholesale increase would not be typical but it is a caveat worth mentioning here.

GAI understands that many of the Town's customers may do their budgets based on a calendar year convention. While GAI does not anticipate the need for a rate increase in the Town's current fiscal year (which ends September 30, 2013), we would recommend, as we do with all clients, that the Town adopt an annual inflationary adjustment to their rates and charges. This annual inflationary adjustment is based on an appropriate price index and is currently expected to be approximately 2.5%. Therefore, GAI would recommend the Town implement a minimum of a 2.5% rate increase effective October 1, 2013.

We hope that the above information is useful for your customers in the preparation of their annual budgets. If you have any questions please don't hesitate to contact us.

Sincerely,  
GAI Consultants, Inc.



Tony Isaacs  
Management Consulting Department Manager

Copy: Cathie Lewis, Town of Fort Myers Beach  
Lisa Kolar, Town of Fort Myers Beach  
Tara L. Hollis, GAI