

1. Requested Motion:

Meeting Date: September 3, 2013

Adopt Ordinance No. 13-07, approving the potable water rate adjustment to reflect the increase to the wholesale water rate increase being imposed by Lee County Utilities, effective October 15, 2013.

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 October 15, 2013.

2. Agenda:

- Consent
- Administrative
- Public Hearing

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, 2011. The wholesale water rate will increase by eight (\$.08) Cents per thousand gallons effective October 15, 2013. This adjustment represents an increase that is equivalent to the increase in the wholesale (bulk) water rate approved by Lee County.

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 13-07

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

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

Affidavit of Public Notice

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

1. I am the **Statement Processing Assistant 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 **Statement Processing Assistant 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 June 16, 2013 to July 15, 2013.
5. This notice was included in all billings mailed to customers in the normal course of business. Such billings were mailed on August 2, 2013.

[Signature]

Sworn to and subscribed before me this 1 day of August, 2013 by

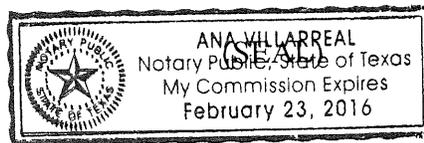
Kenneth Shairrick, personally known to me or who has produced Drivers License as identification.
234 116 43

[Signature]
Print Name: Ana Villarreal

Notary Public - State of Texas

Commission No.: _____

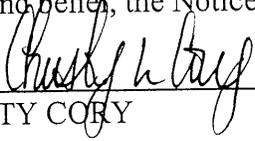
My Commission Expires: 2-23-16



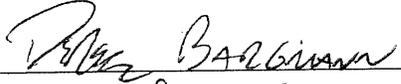
Affidavit of Public Notice

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 July 25, 2013 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 June 15, 2013 to July 15, 2013;
6. to the best of my knowledge and belief, the Notice was so included by AVR.


CHRISTY CORY

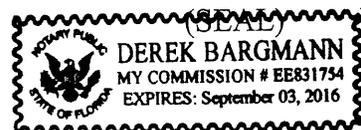
Sworn to and subscribed before me this 7th day of ~~July~~^{Aug}, 2013 by Christy Cory, personally known to me or who has produced FL DL #C600-112-77-726-0 as identification.


Print Name: Derek Bargmann

Notary Public - State of Florida

Commission No.: #EE831754

My Commission Expires: 09/03/16



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 3rd of September, 2013, 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 increase to Town water rates to pass along those certain wholesale (bulk) water rate increases approved by Lee County in the amount 2.18 percent (2.18%) 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 the Town Council, at their June 3, 2013 meeting, directed that the matter be scheduled for public hearing.

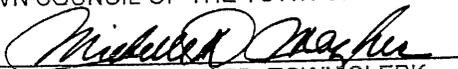
The Captioned title on the proposed Town Ordinance is as follows:

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 EQUAL TO THE AMOUNT OF THE LEE COUNTY WHOLESALE WATER RATE INCREASE APPROVED BY LEE COUNTY; PROVIDING AN EFFECTIVE DATE.

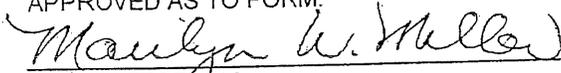
1. Copies of this Notice are on file with the Town Clerk, Town Hall, Second Floor, 2523 Estero Boulevard, Fort Myers Beach, FL 33931. The public may inspect all official documents with regard to this matter during regular business hours at Town Hall.
2. Interested parties may appear at the hearing in person or through counsel, and may be heard with respect to the adoption of the proposed increase.
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 increase 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 October 15, 2013.
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

ORDINANCE OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
ORDINANCE NUMBER 13-07

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 September 3, 2013; 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 eight (\$.08) cents 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 approved by Lee County. 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	\$5.35 per 1,000 gallons
Block 2	\$6.35 per 1,000 gallons
Block 3	\$7.35 per 1,000 gallons
Block 4	\$8.35 per 1,000 gallons

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 _____, 2013.

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:

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

ADOPTED ON THE _____ DAY OF _____, 2013.

TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By: _____
Alan Mandel, Mayor

Approved as to legal sufficiency:

Attest:

By: _____
Town Attorney

By: _____
Michelle D. Mayher, Town Clerk