

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: 2013-026

1. **Requested Motion:** Motion to Introduce Ordinance No. 13-02, Amending **Meeting Date:** 3/04/13
Town Code Relating to Advisory Committees and set a public hearing date for March 18, 2013.

Why the action is necessary: State law provides that prior to adoption of an ordinance, it must be read by title at a public meeting at least once prior to the date when it is adopted.

What the action accomplishes: Introduces the ordinance by reading the title and sets a public hearing date for the ordinance.

2. **Agenda:**

☐ Consent
☒ Administrative

3. **Requirement/Purpose:**

☐ Resolution
☒ Ordinance
☐ Other

4. **Submitter of Information:**

☐ Council
☐ Town Staff
☒ Town Attorney

5. **Background:** At a recent workshop, Town Council discussed trying to make the requirements and regulations governing certain Town Committees more uniform. There was also direction to remove the residency requirement from those committees, but provide that Town residents and Town property owners will be given preference in appointment to such committees. In the course of preparing the ordinance and after discussion with the Town Clerk, it was discovered that there are two committees that no longer exist, but the ordinances that established them were never repealed. Additionally, when the various Town ordinances were codified by Municode and the codified version was adopted by ordinance by the Town Council, certain requirements for some of the committees that had previously deleted were not incorporated into the codified version. This ordinance will also "clean up" those loose ends.

6. **Alternative Action:** Decline to introduce the ordinance.

7. **Management Recommendations:**

8. **Recommended Approval:**

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

9. **Council Action:**

☐ Approved ☐ Denied ☐ Deferred ☐ Other

ORDINANCE 13-02

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE IV, OF THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES, "BOARDS, COMMISSIONS, COMMITTEES AND OTHER AGENCIES;" AMENDING SECTION 2-97 BY DELETING THE REQUIREMENT THAT MEMBERS MEET SPECIFIC CRITERIA; AMENDING SECTIONS 2-97, 2-145, 2-178, 2-223, 2-270 and 2-313 BY PROVIDING THAT MEMBERS DO NOT NEED TO BE TOWN RESIDENTS, BUT TOWN RESIDENTS AND OWNERS OF REAL PROPERTY IN THE TOWN WILL BE GIVEN ABSOLUTE PREFERENCE IN APPOINTMENT OVER NON-RESIDENTS; AMENDING SECTIONS 2-100, 2-180, AND 2-222 BY PROVIDING THAT MEMBERS MAY SERVE AN UNLIMITED NUMBER OF TERMS; AMENDING SECTIONS 2-145, 2-231, AND 2-276 BY PROVIDING THAT MEETINGS SHALL BE HELD AT LEAST QUARTERLY; AMENDING SECTION 2-225 TO CORRECT THE LENGTH OF TERM FOR CELCAB FROM ONE YEAR TO TWO YEARS AND THE TIME OF APPOINTMENT FROM MAY TO OCTOBER OF EACH YEAR; REPEALING ORDINANCE 04-19 AS AMENDED, WHICH ESTABLISHED THE "TRAFFIC MITIGATION AGENCY;" REPEALING SECTIONS 6 THROUGH 13 OF ORDINANCE 99-09, AS THOSE SECTIONS HAVE BEEN AMENDED, WHICH ESTABLISHED THE "TIMES SQUARE ADVISORY COUNCIL;" PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AS FOLLOWS:

Section 1. Chapter 2, Article IV, Section 2-97 of the Town of Fort Myers Beach Code of Ordinances is hereby amended as follows:

Sec. 2-97. - Qualifications of members.

~~Two members shall be environmentalists, two members shall be boat owners, two members shall be bayfront property owners and one member shall represent the marine industry. Any person who is otherwise eligible for membership on a town advisory committee may be appointed to membership on more than one town advisory committee in the discretion of the town council. One spouse per household will be eligible for membership on the AAC during any given term of office. No current member of town council shall be eligible to serve on the AAC. All members must be residents of the town at the time of application for membership on the AAC and during the period of service on the AAC. Town residents and owners of real property located in the Town will be given preference in appointment to the AAC. Non-residents may only be appointed to the AAC when there are no applicants for an open seat on the AAC who are either Town residents or owners of real property located in the Town. All applicants must apply on or before September 1 of the appointment year, with each application being submitted on one sheet of 8½-inch by 11-inch paper, and include a short biography and explanation as to why the applicant wishes to serve on AAC.~~

Section 2. Chapter 2, Article IV, Section 2-100 of the Town of Fort Myers Beach Code of Ordinances is hereby amended as follows:

Sec. 2-100. - Members' terms and vacancies.

The term of office of a member of the anchorage advisory committee shall be for two years or until a successor has been appointed and has qualified.; ~~however, for 2008 only, at least two members of each advisory body will be appointed for a one-year term only and the remaining members of each advisory body will be appointed for a two-year term. Thereafter, a~~ All terms of office shall be for two years and terms shall be staggered so as to provide for continuity within each committee. There shall be no restriction on the number of terms for which an otherwise qualified AAC member can be appointed to serve. ~~Terms of office of all advisory body members serving at the time of the passage of the ordinance from which this division is derived shall be automatically extended to the first town council meeting in October 2008, or until their successors have been appointed, whichever is sooner. No member shall serve more than two consecutive terms of two years each, except that the members appointed for a one-year term in 2008 as provided in this section may be appointed for one additional consecutive term, for a potential total of five consecutive years. After one year out of office with the AAC, any person who has previously served and is otherwise qualified may apply for an additional appointment hereto. Appointments shall be made annually at the first available meeting in October, commencing in October 2008. Vacancies in the AAC shall, within 30 days, be filled by the council for the remainder of the term created by such vacancy.~~

Section 3. Chapter 2, Article IV, Section 2-145 of the Town of Fort Myers Beach Code of Ordinances is hereby amended as follows:

Sec. 2-145. - Composition; appointment procedure; term of office.

(a) There shall be no less than five members and no more than seven members of BORC-AB.

(b) Each member shall serve for a period of two years or until a successor has been appointed and has qualified. ~~However, in November 2009 only, three persons shall be initially appointed by town council for a one-year term, and four persons shall be appointed for a two-year term, so as to create staggered terms of office. There shall be no restrictions on the number of terms for which an otherwise qualified BORC-AB member can be appointed to serve.~~

(c) The town council shall appoint members in October of each year. Anyone wishing to serve on this board must apply no later than September 1 of such year. Each application will include a short biography and explanation as to why the applicant wishes to serve on BORC-AB. Any vacancies in BORC-AB shall be filled by the council within 30 days of creation of such vacancy if possible, and shall be for the remainder of the term created by such vacancy.

(d) Membership on the BORC-AB shall not render a person ineligible for membership on any other advisory committee for the town during his term of office. One spouse per household will be eligible for membership on the BORC-AB during any given term of office. No current member of town council shall be eligible to serve on this committee. ~~Two members may reside outside the municipal boundaries of the town and all remaining members must be residents of the town at the time of application for membership on this committee and during the period of service.~~ Town residents and owners of real property located in the Town will be given preference in appointment to BORC-AB. Non-residents may only be appointed to BORC-AB when there are no applicants for an open seat on BORC-AB who are either Town residents or owners of real property located in the Town.

(e) The members of the BORC-AB shall elect a chairperson and vice-chairperson at the November meeting each year, ~~except that for 2009 only, such election shall occur at the first meeting of the BORC-AB following initial member appointments by town council.~~ The chairperson shall preside over all meetings and sign all minutes. The vice-chairperson shall preside in the absence of the chairperson.

(f) BORC-AB shall meet at least ~~every other month, with the initial meeting to be held within 30 days of the initial member appointments by town council~~ once every quarter. It may meet more frequently as determined by a majority of its members or by the chairperson. It shall adopt a policies and procedures manual for the transaction of business and minutes of all meetings will be kept.

Section 4. Chapter 2, Article IV, Section 2-178 of the Town of Fort Myers Beach Code of Ordinances is hereby amended as follows:

Sec. 2-178. - Qualifications of members.

No members of the CRAB shall be salaried officials of the town. Any person who is otherwise eligible for membership on a town advisory committee may be appointed to membership on more than one town advisory committee in the discretion of the town council. One spouse per household will be eligible for membership on the CRAB during any given term of office. No current member of town council shall be eligible to serve on the CRAB. ~~All members must be residents of or owners of real property located within the territorial boundaries of the town at the time of application for membership on the CRAB and during the period of service on the CRAB.~~ Town residents and owners of real property located in the Town will be given preference in appointment to the CRAB. Non-residents may only be appointed to the CRAB when there are no applicants for an open seat on the CRAB who are either Town residents or owners of real property located in the Town. All applicants must apply on or before September 1 of the appointment year, ~~with each application being submitted on one sheet of 8½ inch by 11-inch paper,~~ and include a short biography and explanation as to why the applicant wishes to serve on the CRAB.

Section 5. Chapter 2, Article IV, Section 2-180 of the Town of Fort Myers Beach Code of Ordinances is hereby amended as follows:

Sec. 2-180. - Members' terms and vacancies.

The term of office of a member of the CRAB shall be for two years or until a successor has been appointed and has qualified, ~~however, for 2008 only, at least two members of each advisory body will be appointed for a one-year term only and the remaining members of each advisory body will be appointed for a two-year term. Thereafter, a~~All terms of office shall be for two years and terms shall be staggered so as to provide for continuity within each committee. ~~Terms of office of all advisory body members serving at the time of the passage of the ordinance from which this division is derived shall be automatically extended to the first town council meeting in October 2008, or until their successors have been appointed, whichever is sooner. After one year out of office with the CRAB, any person who has previously served and is otherwise qualified may apply for an additional appointment hereto. There shall be no restriction on the number of terms for which an otherwise qualified CRAB member can be appointed to serve.~~ Appointments shall be made annually at the first available meeting in October, commencing in October 2008. Vacancies in the CRAB shall, within 30 days, be filled by the council for the remainder of the term created by such vacancy.

Section 6. Chapter 2, Article IV, Section 2-222 of the Town of Fort Myers Beach Code of Ordinances is hereby amended as follows:

Sec. 2-222. - Composition; appointment procedure; term.

The CELCAB shall consist of a minimum of five members and a maximum of seven members appointed by the town council. The term of office of a member of the CELCAB shall be for two years or until a successor has been appointed and has qualified; ~~however, for 2008 only, at least two members of each advisory body will be appointed for a one-year term only and the remaining members of each advisory body will be appointed for a two-year term. Thereafter, a~~All terms of office shall be for two years and terms shall be staggered so as to provide for continuity within each committee. ~~Terms of office of all advisory body members serving at the time of the passage of the ordinance from which this division is derived shall be automatically extended to the first town council meeting in October 2008, or until their successors have been appointed, whichever is sooner. No member shall serve more than two consecutive terms of two years each, except that the members appointed for a one-year term in 2008 as provided in this section may be appointed for one additional consecutive term, for a potential total of five consecutive years. After one year out of office with the CELCAB, any person who has previously served and is otherwise qualified may apply for an additional appointment hereto. There shall be no restriction on the number of terms for which an otherwise qualified CELCAB member can be appointed to serve.~~ Appointments shall be made annually at the first available meeting in October, commencing in October 2008.

Section 7. Chapter 2, Article IV, Section 2-223 of the Town of Fort Myers Beach Code of Ordinances is hereby amended as follows:

Sec. 2-223. - Qualifications of members.

Any person who is otherwise eligible for membership on a town advisory committee may be appointed to membership on more than one town advisory committee in the discretion of the town council. One spouse per household will be eligible for membership on CELCAB during any given term of office. No current member of town council shall be eligible to serve on CELCAB. ~~All members must be residents of or owners of real property located within the territorial boundaries of the town at the time of application for membership on CELCAB and during the period of service on this board.~~ Town residents and owners of real property located in the Town will be given preference in appointment to CELCAB. Non-residents may only be appointed to the CELCAB when there are no applicants for an open seat on the CELCAB who are either Town residents or owners of real property located in the Town. All applicants must apply on or before September 1 of the appointment year, ~~with each application being submitted on one sheet of 8½-inch by 11-inch paper, and including~~ a short biography and explanation as to why the applicant wishes to serve on CELCAB. No members of the CELCAB shall be salaried officials of the town.

Section 8. Chapter 2, Article IV, Section 2-225 of the Town of Fort Myers Beach Code of Ordinances is hereby amended as follows:

Sec. 2-225. - Members' terms and vacancies.

The term of office of a member of the CELCAB shall be ~~one~~ two years or until a successor has been appointed and has qualified. Appointments shall be made annually at the first meeting of the council in ~~May~~ October. Vacancies in the CELCAB committee shall, within 30 days, be filled by the council for the remainder of the term created by such vacancy.

Section 9. Chapter 2, Article IV, Section 2-231 of the Town of Fort Myers Beach Code of Ordinances is hereby amended as follows:

Sec. 2-231. - Rules and procedures.

The CELCAB shall meet at least ~~eight times per year and shall meet no less often than~~ bimonthly quarterly or more frequently at regular intervals to be determined by it, and at such other times as the presiding officer or the CELCAB may determine. The CELCAB shall adopt rules for the transaction of its business. The rules may be amended from time to time, but only upon notice to all members that said proposed amendments shall be acted upon at a specified meeting. A majority vote of the CELCAB shall be required for the approval of the proposed amendment. The CELCAB shall keep a properly indexed record of its resolutions, transactions, findings and determinations, which record shall be a public record. All meetings of the CELCAB shall be public meetings.

Section 10. Chapter 2, Article IV, Section 2-270 of the Town of Fort Myers Beach Code of Ordinances is hereby amended as follows:

Sec. 2-270. - Members' terms, qualifications, and vacancies.

(a) The term of office of a member of the MRTF shall be for two years or until a successor has been appointed and has qualified, ~~however, for 2008 only, at least two members of each advisory body will be appointed for a one year term only and the remaining members of each advisory body will be appointed for a two year term.~~ Thereafter, ~~a~~All terms of office shall be for two years and terms shall be staggered so as to provide for continuity within each committee. ~~Terms of office of all advisory body members serving at the time of the passage of the ordinance from which this division is derived shall be automatically extended to the first town council meeting in October 2008, or until their successors have been appointed, whichever is sooner. No member shall serve more than two consecutive terms of two years each, except that the members appointed for a one year term in 2008 as provided in this section may be appointed for one additional consecutive term, for a potential total of five consecutive years. After one year out of office with the MRTF, any person who has previously served and is otherwise qualified may apply for an additional appointment hereto. Any person who is otherwise eligible for membership on a town advisory committee may be appointed to membership on more than one town advisory committee in the discretion of the town council. One spouse per household will be eligible for membership on the MRTF during any given term of office. No current member of town council shall be eligible to serve on the MRTF. All members must be residents of or owners of real property located within the territorial boundaries of the town at the time of application for membership on the MRTF and during the period of service on the MRTF. Town residents and owners of real property located in the Town will be given preference in appointment to MRTF. Non-residents may only be appointed to the MRTF when there are no applicants for an open seat on MRTF who are either Town residents or owners of real property located in the Town. All applicants must apply on or before September 1 of the appointment year, with each application being submitted on one sheet of 8½-inch by 11-inch paper, and include a short biography and explanation as to why the applicant wishes to serve on MRTF.~~

(b) Appointments shall be made annually at the first available meeting in October, commencing in October 2008. Vacancies in the MRTF shall, within 30 days, be filled by the council for the remainder of the term created by such vacancy.

Section 11. Chapter 2, Article IV, Section 2-276 of the Town of Fort Myers Beach Code of Ordinances is hereby amended as follows:

Sec. 2-276. - Rules and procedures.

The MRTF shall meet at least ~~eight times per year and shall meet no less often than~~ bimonthly quarterly or more frequently at regular intervals to be determined by it, and at such other times as the presiding officer or the MRTF may determine. The MRTF shall

adopt rules for the transaction of its business. The rules may be amended from time to time, but only upon notice to all members that said proposed amendments shall be acted upon at a specified meeting. A majority vote of the MRTF shall be required for the approval of the proposed amendment. The MRTF shall keep a properly indexed record of its resolutions, transactions, findings and determinations, which record shall be a public record. All meetings of the MRTF shall be public meetings.

Section 12. Chapter 2, Article IV, Section 2-178 of the Town of Fort Myers Beach Code of Ordinances is hereby amended as follows:

Sec. 2-313. Composition; appointment procedure; term of office.

(a) There shall be no less than five (5) members and no more than seven (7) members of the Public Safety Committee. A quorum of the Committee shall be a majority of the total number of persons appointed by the council for the committee at any given time.

(b) Each member shall serve on the committee for a period of two (2) years or until a successor has been appointed and has qualified, provided, however, that in order to provide for staggered terms, appointments made in 2012 shall be equally distributed between one (1) and two (2) year terms. If there is an uneven number of appointees in 2012, then the staggering of terms shall be such that one-half of the members plus one shall be appointed to two (2) year terms and the remainder shall be appointed for one (1) year terms. There shall be no restriction on the number of terms to which an otherwise qualified Public Safety Committee member may be appointed.

(c) With the exception of the initial appointments in 2012, Town Council shall appoint members in October of each year. Persons who desire to serve on the committee must submit an application to the Town Clerk no later than September 1 in order to be eligible for appointment the following October. Each application should include a short biography and explanation as to why the applicant wishes to serve on the Public Safety Committee. Any vacancy that occurs on the Public Safety Committee, other than a vacancy created by the expiration of a term, shall be filled by appointment by the Town Council within thirty (30) days of the occurrence of the vacancy, or as soon thereafter as practicable. Such appointment to fill a vacancy shall be for the remainder of the term for the seat where the vacancy occurred.

(d) Membership on the Public Safety Committee shall not render a person ineligible for appointment to any other Town advisory committee or board. Only one member of the same household shall be eligible to serve on the Public Safety Committee at the same time. No current member of Town Council, or the spouse or child of that member, shall be eligible to serve on the Public Safety Committee. All members of the Public Safety Committee must be residents of the Town at the time of application for appointment and during the time they serve on the Committee. Town residents and owners of real property located in the Town will be given preference in appointment to the Public Safety Committee. Non-residents may only be appointed to the Public Safety Committee when there are no applicants for an open seat on the Public Safety

Committee who are either Town residents or owners of real property located in the Town.

(e) The members of the Public Safety Committee shall elect a chairperson and vice-chairperson at the November meeting of each year, provided, however, that for 2012 only, such election shall occur at the first meeting of the Public Safety Committee following initial appointments by Town Council. The chairperson shall preside over all meetings and sign all minutes. The vice-chairperson shall preside in the absence of the chairperson.

(f) The Public Safety Committee shall meet at least ~~every other month~~ quarterly, with the initial meeting to be held within thirty (30) days of the initial member appointments by Town Council. The Committee may meet more frequently as determined by a majority of its members or by the chairperson. The Committee shall adopt policies and procedures for the transaction of its business and minutes of all meetings shall be kept. All meetings shall be publicly noticed as required by law.

(g) In addition to the regular members of the Public Safety Committee as specified in subsection (a) of this Section, the Town Council shall appoint one (1) *ex officio*, non-voting member from the Lee County Sheriff's Office and one (1) *ex officio*, non-voting member from the Fort Myers Beach Fire District. Such *ex officio* members of the Committee are not required to be Town residents, shall be entitled to participate in all discussions of the Committee, but shall not be entitled to vote on any measure.

Section 13. Ordinance 04-19 as amended, and which established the "Traffic Mitigation Agency" and Sections 6 through 13 of Ordinance 99-09, as those sections have been amended, which established the "Times Square Advisory Council," are hereby repealed and the "Traffic Mitigation Agency" and the "Times Square Advisory Council" are hereby abolished.

Section 14. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 15. Effective Date. This ordinance shall take effect immediately upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by _____ and seconded by _____ and upon being put to a vote, the result was as follows:

Bob Raymond, Mayor
Joe Kosinski
Dan Andre

Alan Mandel, Vice Mayor
Jo List

DULY PASSED AND ADOPTED THIS ____ DAY OF _____ 2013, BY THE

TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH.

ATTEST:

By: _____
Alan Mandel, Acting Mayor

By: _____
Michelle D. Mayher, Town Clerk

Approved as to form and legal sufficiency:

By: _____
FOWLER WHITE BOGGS, Town Attorney