

ORDINANCE 05-16

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING ORDINANCE 96-19, "THE TOWN OF FORT MYERS BEACH RECOVERY FROM DISASTER ORDINANCE," MODIFYING DEFINITIONS, CHANGING THE COMPOSITION AND REQUIREMENTS OF MEETING FOR THE DISASTER ADVISORY COUNCIL, CHANGING THE COMPOSITION OF THE POST-DISASTER RECOVERY TASK FORCE; CORRECTING SCRIVENER'S ERRORS; AMENDING ESSENTIAL SERVICE AND FACILITY RESTORATION PRIORITIES TO ADD RE-ENTRY PROVISIONS; MODIFYING PROVISIONS OF THE INITIAL BUILDING MORATORIUM TO INCLUDE REFERENCES TO TOWN; PROVIDING AUTHORITY; SEVERABILITY; EFFECT OF ORDINANCE, AND EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

SECTION 1. Authority. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. Section 1 of Ordinance 96-19 is amended as set forth below. Language being repealed from the existing Ordinance is indicated with ~~strikethroughs~~ and entirely new language is indicated with underlining.

Section 1. ~~65. SECTION ONE: CHAPTER SIXTY FIVE.~~ Authority. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION 3. Scrivener's Errors. Sections 2 though 9, 11, and 14 of Ordinance 96-19 are hereby amended to correct the same scrivener's error by deleting the number "65" from the title of each such section, as set forth below:

Section 2. ~~65. SECTION TWO:~~ Title and Citation

Section 3. ~~65. SECTION THREE:~~ Definitions

Section 4. ~~65. SECTION FOUR:~~ Disaster Advisory Council

Section 5. ~~65. SECTION FIVE:~~ Post-Disaster Recovery Task Force

Section 6. ~~65. SECTION SIX:~~ Emergency Review Board

Section 7. ~~65. SECTION SEVEN:~~ Post-Disaster Redevelopment Priorities

Section 8. ~~65. SECTION EIGHT-~~ Essential Service and Facility Restoration Priorities

Section 9. ~~65. SECTION NINE:~~ post-Disaster Debris Clearance and Disposal Strategies

Section 11. ~~65. SECTION ELEVEN:~~ Economic Redevelopment Policies

Section 14. ~~65. SECTION FOURTEEN:~~ Penalties

SECTION 4. Definitions as set forth in Section 3(C) of Ordinance 96-19 are amended as set forth below. Language being repealed from the existing

Ordinance is indicated with ~~strikethroughs~~ and entirely new language is indicated with underlining.

Section 3(C). "Chief Building Official" means ~~the Director of Codes and Building Services~~ the Community Development Director or his/her designee, who is hereby designated to implement, administer and enforce the building permit moratoria provisions of this Ordinance.

SECTION 5. The Requirement of Regularly Scheduled Meetings of the Disaster Advisory Council as set forth in the first sentence of Section 4(B) is amended as set forth below. Language being repealed from the existing Ordinance is indicated with ~~strikethroughs~~.

Section 4(B). The Disaster Advisory Council will meet ~~on a continuing and regularly scheduled basis~~ to discuss its specific roles and responsibilities in accordance with this Ordinance, and relative issues associated with recovery from a major or catastrophic disaster.

SECTION 6. Composition of Disaster Advisory Council as set forth in Section 4 (C) of Ordinance 96-19 is amended to read as set forth below. Language being repealed from the existing Ordinance is indicated with ~~strikethroughs~~ and entirely new language is indicated with underlining.

Section 4(C) The Disaster Advisory Council will consist of the following officials ~~and such other officials as may be approved annually by the Town Council:~~

1. Town Manager
2. Assistant Town Manager
3. Town Attorney
4. Fort Myers Beach Fire Control District designee
5. Lee County Utilities designee
6. ~~Florida Cities Water Company~~ Beach Water designee
7. Franchisee Recycling Corporation designee
8. Lee County Health Department designee
9. Lee County Sheriff's designee
10. ~~Other representatives as appointed by the Town Council~~ Florida Power & Light (FPL) designee
11. Esterro Island Medical Center designee
12. TECO Natural Gas Utility designee
13. Other officials as appointed annually by the Town Council

The officials set forth above may be represented by an alternate designee from the same entity chosen to serve in their place, providing the appointment name of the alternate designee is made provided in advance in writing to the Disaster Advisory Council chair.

SECTION 7. Composition of Post-Disaster Recovery Task Force as set forth in Section 5 (A) of Ordinance 96-19 is amended to read as set forth below. Lan-

guage being repealed from the existing Ordinance is indicated with ~~strikethrough~~ and entirely new language is indicated with underlining.

Section Five (A). Post-Disaster Recovery Task Force. A Post-Disaster Recovery Task Force is established that will be comprised of the following ~~nine~~ twelve officials:

1. Town Manager
2. Assistant Town Manager
3. Town Attorney
4. Fort Myers Beach Fire Control District designee
5. Lee County Utilities designee
6. ~~Florida Cities Water Company~~ Beach Water designee
7. Franchisee Recycling Corporation designee
8. Lee County Health Department designee
9. Lee County Sheriff's designee
10. Florida Power & Light (FPL) designee
11. Estero Island Medical Center designee
12. TECO Natural Gas Utility designee

Additionally, all ~~any~~ Disaster Advisory Council members who are not specifically listed by designation in this Section 5(A) shall be ex official members of the Post-Disaster Recovery Task Force.

SECTION 8. The Responsibilities of the Post-Disaster Recovery Task Force as set forth in Section 5 (E)(2)(r) of Ordinance 96-16 are amended to read as set forth below. Language being repealed from the existing Ordinance is indicated with ~~strikethrough~~ and entirely new language is indicated with underlining.

SECTION 5(E) 2. In addition to the responsibilities above, the Post-Disaster Recovery Task Force may:

... r. Review emergency actions and recommend amendments to Town's: 1) Post-Disaster Ordinance; 2) Post-Disaster Strategic Plan, 3) Comprehensive Emergency Management Plan; 4) Emergency Operations Center's Standard Operating Procedures; and 5) other relevant Administrative Codes Town Ordinances, Resolutions, and/or procedures.

SECTION 9. Essential Service and Facility Restoration Priorities as set forth in Section Eight of Ordinance 96-19 are hereby amended to read as set forth below. Language being repealed from the existing Ordinance is indicated with ~~strikethroughs~~ and entirely new language is indicated with underlining.

~~65.~~ SECTION EIGHT. Essential Service, ~~and~~ Facility Restoration and Re-entry Priorities

A. The following priorities will help to govern power and communication service restoration, once damaged electrical transmission systems, substations and distribution systems are restored:

1. Priority # 1- Emergency response and recovery facilities having no emergency power or telephone service (community emergency operations or command centers, response/ recovery centers); medical facilities having no emergency power; repairing emergency communication centers and facilities; and designated facilities providing emergency food, water and ice.

2. Priority # 2- ~~Water treatment~~ distribution and pumping facilities, special care centers, ~~nursing home facilities having no emergency power~~, law enforcement and fire stations having no emergency power, staging areas and distribution centers requiring emergency power.

3. Priority # 3- ~~Wastewater treatment plants and lift stations~~, general telephone service, solid waste facilities, medical facilities having emergency power, ~~nursing homes having emergency power~~, law enforcement and fire stations having emergency power, public shelters still housing evacuees and the homeless, ~~adult congregate living facilities~~, facilities serving as disaster application centers for federal disaster relief, and public and private facilities necessary for resource management and distribution activities (government facilities handling emergency purchasing, designated grocery store/restaurant outlets).

4. Priority # 4- Community areas receiving minor damage, and other government facilities.

5. Priority # 5- Community areas receiving major damage.

6. Priority # 6- Community areas receiving catastrophic damage.

B. The following procedures will help to govern restoration of water service:

1. Valve off major leak areas.

2. Work with ~~private franchises providing service~~ Lee County Utilities to determine extent of damaged facilities and reestablish service.

3. Identify highly damaged areas.

4. Assess and provide service to meet critical customer needs (i.e., emergency response and recovery facilities, ~~hospitals, nursing homes, emergency public shelters, kidney dialysis patient facilities~~, and other identified emergency response facilities).

5. Establish emergency water sites as necessary.

6. Establish priorities and repair damaged facilities in the following order: ~~treatment plants~~, trunk mains, distribution mains, service connections.

7. Re-pressurize area water systems as necessary.

8. Establish area water potability.

C. The following procedures will help to govern wastewater service restoration:

1. Assess damages to system (~~wastewater treatment plants~~, lift stations, electrical support systems, to include evaluating the need to take lift stations off line in flooded evacuated areas to avoid damage to property when power is restored).

2. Work with ~~private franchises providing service~~ Lee County Utilities to determine extent of damaged facilities and reestablish service.

3. Coordinate recovery operations in determining and repairing any damages to wastewater treatment plants.

4. Determine need and provide emergency service to emergency response and recovery facilities and hospitals.

5. Repair damaged facilities in the following sequence: ~~treatment plants first, then~~ lift stations, starting with those closest to the treatment plants.

6. Reestablish wastewater service to franchise areas as power and water service are restored.

D. The following procedures will help to govern the re-entry of individuals to the Town:

1. Re-entry to damaged areas is coordinated with law enforcement and the Fire District and Public Health Agencies to determine which areas are safe.

The following general re-entry protocols are guidelines to be followed:

- a. Search and Rescue, if necessary;
- b. Initial Impact Assessment;
- c. Structures Damage Assessment;
- d. Limited entry to Response and Recovery Workers;
- e. Limited entry to residents and business owners (or their designees) based upon previously established criteria;
- f. Full entry.

2. The following general criteria shall be used to help determine whether an area is safe for re-entry purposes:

- a. Vehicular and/or foot access to damaged areas is established.
- b. Life-threatening situations are identified, and isolated or mitigated (i.e., unsafe buildings, downed power lines, areas exposed to extremely hazardous substances, etc.)
- c. If flooding incident, flooding has receded.
- d. Sewer system working properly or emergency system provided
- e. Water system working properly or emergency system provided
- f. "No drinking water" or "boil water" orders have been issued where water system has coliform, fecal coliform and/or E. Coli bacteria above safe conditions.

SECTION 10. The Initial Building Moratorium Provisions as set forth in Section 10(C) (1) are amended to read as set forth below. . Language being repealed from the existing Ordinance is indicated with ~~strikethrough~~ and entirely new language is indicated with underlining.

Section 10(C)(1). 1. Initial building moratorium.

- a. Effective date of an initial Building Moratorium. An initial building moratorium will become effective when one or more of the following actions or findings occur:

- (1) The Governor of the State of Florida or the President of the United States declares the town a disaster area.
- (2) The Chief Building Official determines that one hundred (100) or more structures have received major damage or have been destroyed.
- (3) Upon a finding by the Board of County Commissioners or the Town Council of the Town of Fort Myers Beach of the existence of a state of local emergency in accordance with ~~Chapter 252~~ of the Florida Statutes.
- (4) The County or the Town of Fort Myers Beach is unable to maintain acceptable levels of public service expected during non-emergency situations.

b. Duration. The initial building moratorium will remain in effect for up to seventy-two (72) hours. No building permits may be issued during this time period. After expiration of this initial building moratorium, the following moratoria will become immediately effective unless modified by the ~~Board~~ Town Council.

SECTION 11. The New Development Moratorium Provisions as set forth in Section 10(C)(5) of Ordinance 96-19 are hereby amended to read as set forth below. Language being repealed from the existing Ordinance is indicated with ~~strikethrough~~ and entirely new language is indicated with underlining.

Section 10(C)(). New development moratorium. No building permit for new construction or reconstruction unrelated to rebuilding or repairing disaster damaged structures may be issued for at least thirty (30) days following the expiration of the initial building moratorium in order to allow an examination of existing building and life safety codes. The Disaster Advisory Committee or Post Disaster Recovery Task Force will determine and advise ~~the Board of County Commissioners~~ the Town Council of the Town of Fort Myers Beach whether a new development moratorium is necessary based upon the results of damage assessment and recommendations from the Chief Building Official and the Recovery Task Force.

SECTION 12. Amendment of Caption. The Caption of Section Thirteen of Ordinance 96-19 is hereby amended to read as set forth below. Language being repealed from the existing Ordinance is indicated with ~~strikethrough~~ and entirely new language is indicated with underlining.

~~65.~~ SECTION THIRTEEN. Authority. Authority to Declare State of Local Emergency.

SECTION 13. 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 invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance , and in no way affect the validity of all other provisions of this ordinance.

SECTION 14. Effect of Ordinance. The provisions of this Ordinance shall be deemed cumulative and supplemental and shall have no legal effect upon the ordinance establishing the Town of Fort Myers Beach Recovery From Disaster Ordinance, except as expressly provided.

SECTION 15. Effective Date. This ordinance shall become effective immediately upon its adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Ryneerson and seconded by Council Member Massucco and, upon being put to a vote, the result was as follows:

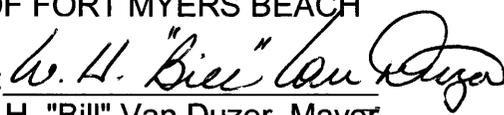
Howard Ryneerson	<u>Aye</u>
Don Massucco	<u>Aye</u>
Ken Katcko	<u>Aye</u>
W. H. "Bill" Van Duzer	<u>Aye</u>
Garr Reynolds	<u>Nay</u>

DULY PASSED AND ENACTED this 27th day of June, 2005.

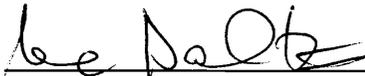
ATTEST:

By: 
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH

By: 
W. H. "Bill" Van Duzer, Mayor

Approved as to form by:


Anne Dalton, Town Attorney