

ORDINANCE No. 04-19

AN ORDINANCE ESTABLISHING THE TOWN TRAFFIC MITIGATION AGENCY, PROVIDING AUTHORITY; AGENCY ESTABLISHED; COMPOSITION AND APPOINTMENT; QUALIFICATIONS OF MEMBERS; PURPOSE AND SCOPE; MEMBER'S TERM AND VACANCIES; FORFEITURE OF OFFICE; COMPENSATION OF MEMBERS; ELECTION OF OFFICERS; DUTIES OF OFFICERS; CLERK; RULE AND PROCEDURES; EMPLOYMENT OF STAFF AND EXPERTS; REIMBURSED EXPENSES; SUPERVISION OF STAFF; FUNCTIONS, POWERS AND DUTIES; COOPERATION WITH TMA; SEVERABILITY 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. Agency Established. A committee to be known as the Town of Fort Myers Beach Traffic Mitigation Agency "TMA" is hereby established.

SECTION 3. Composition and appointment. The TMA shall consist of not less than five (5) nor more than seven (7) members appointed by the Town Council.

SECTION 4. Qualifications of members. Members of the TMA shall be residents of the town and shall not be salaried officials of the town.

SECTION 5. Purpose and scope. The broad objectives of the TMA are to further the welfare of the citizens of the town by helping to promote a better, more helpful, convenient, efficient, healthful, safe and attractive community environment by addressing issues that are related to traffic mitigation.

SECTION 6. Member's term and vacancies. The term of office of a member of the TMA shall be one year or until a successor has been appointed and has qualified. Appointments shall be made annually at the first meeting of the council in May. Vacancies in the TMA shall, within thirty days, be filled by the council for the remainder of the term created by such vacancy.

SECTION 7. Forfeiture of office. A TMA member shall forfeit office if the member:

- a. Lacks at any time during the term of office any qualification for the office prescribed by town ordinance or state law;
- b. Violates any standard of conduct or code of ethics established by law for public officials; or
- c. Is absent from three (3) consecutive regular TMA meetings without being excused by the TMA.

SECTION 8. Compensation of members. The members of the TMA shall serve without compensation.

SECTION 9. Election of officers. The TMA shall each year at the first meeting of the newly appointed members elect one of its members as Presiding Officer and elect an alternate.

SECTION 10. Duties of officers. It shall be the duty of the Presiding Officer to preside over all meetings of the TMA. In the absence of the Presiding Officer, the alternate may preside.

SECTION 11. Clerk. The town manager or a designee shall be the clerk of the TMA. It shall be the duty of the clerk to keep a record of all proceedings of the TMA, transmit its recommendations when directed by the Presiding Officer, maintain an updated complete file of all its proceedings in the town hall, and perform such other duties as are usually performed by the clerk of a deliberative body.

SECTION 12. Rule and procedures. The TMA shall meet at least eight times per year and shall meet no less often than bimonthly or more frequently at regular intervals to be determined by it, and at such other times as the Presiding Officer or it may determine. It 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 TMA shall be required for the approval of the proposed amendment. It shall keep a properly indexed record of its resolutions, transactions, findings and determinations, which record shall be a public record. All meetings of the TMA shall be public meetings.

SECTION 13. Employment of staff and experts. The TMA may, subject to the approval of the town council and within the financial limitations set by appropriations made or other funds available, recommend the town manager employ such experts, consultants, technicians and staff as may be deemed necessary to carry out the functions of the TMA.

SECTION 14. Reimbursed expenses. TMA members may be reimbursed for expenses as are necessary to conduct the work of the agency from funds appropriated by the town council.

SECTION 15. Supervision of staff. Staff personnel of the TMA shall be under the day-to-day supervision of the town manager.

SECTION 16. Functions, powers and duties. The functions, powers and duties of the TMA shall be, in general to:

- a. Acquire and maintain such information and materials as are necessary to an understanding of past trends, present conditions and forces at work that are related to traffic mitigation.
- b. Conduct such public hearings as may be required to gather information related to traffic mitigation.
- c. Make or cause to be made any necessary special studies related to traffic mitigation.
- d. Prepare and recommend to the town council from time to time, traffic changes as may be deemed necessary.
- e. Prepare and recommend to the town council from time to time plans and/or recommendations for specific capital improvements in pursuance of traffic mitigation. Give aid to the town officials charged with the direction of projects of improvements to promote traffic mitigation.
- f. Perform any other duties which lawfully may be assigned to it by resolution of the town council, such as, but not limited to, the review, holding of public hearings and making recommendations to the town, on regulations, codes and other documents, as may be necessary to implement traffic mitigation.

SECTION 17. Cooperation with TMA. Each officer and employee of the town is hereby directed to give all reasonable aid, cooperation and information to the TMA or to the authorized assistants of such agency when so requested.

SECTION 18. 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 19. 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 Rynearson and seconded by Council Member Van Duzer and, upon being put to a vote, the result was as follows:

Howard Rynearson	<u>Aye</u>
Don Massucco	<u>Aye</u>
Bill Thomas	<u>Aye</u>
W. H. "Bill" Van Duzer	<u>Aye</u>
Garr Reynolds	<u>Aye</u>

DULY PASSED AND ENACTED this 20th day of December, 2004.

ATTEST:

TOWN OF FORT MYERS BEACH

By: Marsha Segal-George By: Bill Thomas
Marsha Segal-George, Town Clerk Bill Thomas, Mayor

Approved as to form by:

Richard V.S. Roosa
Richard V.S. Roosa, Town Attorney