

TOWN OF FORT MYERS BEACH  
ORDINANCE 09-04  
TOWN OF FORT MYERS BEACH PUBLIC WORKS AGENCY

AN ORDINANCE AMENDING TOWN ORDINANCE 00-01 TO REDUCE THE NUMBER OF MANDATORY MEETINGS TO BE HELD BY THE TOWN OF FORT MYERS BEACH PUBLIC WORKS AGENCY; TO ALTER THE GENERAL POWERS TO BE EXERCISED BY THE TOWN OF FORT MYERS BEACH PUBLIC WORKS AGENCY BY REMOVING THE PROVISION OF STORM WATER DRAINAGE MATTERS; PROVIDING FOR SEVERABILITY, AUTHORITY AND EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Constitution of the State of Florida 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, Ordinance 00-01 creating the Town of Fort Myers Beach Public Works Agency (PWA) was approved by the Town Council of the Town of Fort Myers Beach on January 24, 2000; and

WHEREAS, Ordinance 00-01 provides that the Board of the PWA is required to meet eight (8) times per year; and

WHEREAS, the Town Council finds there is no public need to have eight (8) mandatory meetings of the PWA per year; and

WHEREAS, Ordinance 00-01 provides that one of the purposes and general powers of the PWA is to provide for storm water drainage; and

WHEREAS, the Town Council finds that there is no public need to have the PWA provide for stormwater drainage and further finds that matters involving stormwater drainage should be handled by the Town Council and Town staff rather than the PWA.

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

SECTION 1. Incorporation of "Whereas" Clauses. The above "Whereas" clauses are hereby incorporated by reference.

SECTION 2. Authority and Title. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida; Chapters 166 and Chapter 180, Florida Statutes, and other applicable provisions of law.

SECTION 3. Amendment to Section 3, Subsection (a) of Ordinance 00-01. Section 3, subsection (a) of Ordinance 00-01 is hereby amended as follows, with deletions being indicated by ~~strike-through~~ formatting:

"Section 3. Purpose and General Powers. The purpose of this agency is:

- (a) To exercise the expressed powers of Florida Statutes Chapter 180, including to provide water and alternative water supplies, including but not limited to reclaimed water, and water from aquifer storage and recovery and desalination systems for domestic, municipal or industrial uses. ~~and to provide storm water drainage.~~ "

SECTION 4. Amendment to Section 6 of Ordinance 00-01. Section 6 of Ordinance 00-01 is hereby amended as follows, with additions being indicated by underlining and deletions being indicated by ~~strike-through~~ formatting:

"Section 6. Meetings. The board shall meet at least twice per year as set forth in Section 13 of this Ordinance ~~regularly at least eight times per year.~~ Special meetings may be held on the call of the mayor or the agency manager and, whenever practical, upon no less than a 24-hour notice to each member and the public. Action taken at a special meeting shall be limited to the purpose for which the special meeting is called."

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application will be deemed a separate, distinct and independent provision and such holding will not affect the validity of the remaining portion or application hereof. To this end, the provisions of this ordinance are declared to be severable.

SECTION 6. Effective Date. This Ordinance will be effective immediately upon adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Bob Raymond and seconded by Council Member List and, upon being put to a vote, the result was as follows:

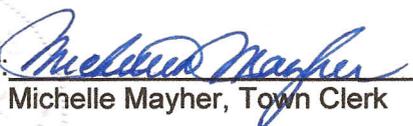
Larry Kiker, Mayor aye  
Tom Babcock, Councilmember aye  
Bob Raymond, Councilmember aye

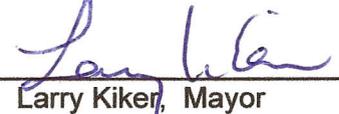
Herb Acken, Vice Mayor nay  
Jo List, Councilmember aye

DULY PASSED AND ADOPTED this 18<sup>th</sup> day of May, 2009.

ATTEST:

TOWN OF FORT MYERS BEACH

By:   
Michelle Mayher, Town Clerk

By:   
Larry Kiker, Mayor

Approved as to legal sufficiency by:

  
Anne Dalton, Town Attorney