

ORDINANCE No. 00-01

AN ORDINANCE ESTABLISHING THE TOWN OF FORT MYERS BEACH PUBLIC WORKS AGENCY, PROVIDING AUTHORITY; NAME; PURPOSE AND GENERAL POWERS; BOUNDARIES; BOARD MEMBERS; MEETINGS; RULES AND JOURNAL; AGENCY MANAGER; POWERS AND DUTIES; CLERK; ESTABLISHMENT OF ADDITIONAL DEPARTMENTS; FISCAL YEAR; SUBMISSION OF BUDGET AND BUDGET MESSAGE; BOARD ACTION ON THE BUDGET; BUDGET AMENDMENTS; FIRST-YEAR EXPENSES; 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 and Chapter 180, Florida Statutes, and other applicable provisions of law.

Section 2. Name. There is hereby established the Town of Fort Myers Beach Public Works Agency.

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.

(b) however, the agency shall not construct any system, work, project or utility authorized to be constructed hereunder in the event that a system, work, project or utility of a similar character is being actually operated in the town.

Section 4. Boundaries. The territorial boundaries of the Town of Fort Myers Beach Public Works Agency shall include all that part of Lee County that is located and situated within Estero Island.

Section 5. Board members. The town council, hereinafter referred to as the board, shall be and will constitute the board of the agency.

Section 6. Meetings. The board shall meet 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 7. Rules and journal. The board shall determine its own rules and order of business and shall provide for keeping a journal and minutes of its proceedings.

Section 8. Agency Manager. The town manager shall be the agency manager.

Section 9. Powers and duties. The manager shall be the chief administrative officer of the agency and shall perform such duties as may be required by the board or law. The manager shall be responsible to the board and shall have the following powers and duties:

- (a) To hire or fill existing positions and, when the manager deems it necessary for the good of the service, suspend or remove employees, except as otherwise provided by law.
- (b) To direct and supervise the administration of all employees and departments.
- (c) To attend all board meetings and shall have the right to take part in discussion but may not vote.
- (d) To ensure that all laws and acts of the board, subject to enforcement by the manager or by officers subject to the manager's direction and supervision, are faithfully executed.
- (e) To submit to the board and make available to the public a complete report on the administrative activities of the agency as of the end of each fiscal year.
- (f) To make such other reports as the board may require concerning the operation of agency departments subject to the agency manager's direction and supervision.
- (g) To keep the board fully advised as to the condition and future needs of the agency and to make written recommendations to the board concerning the affairs of the agency.
- (h) To perform such other duties as may from time to time be assigned by the board.

Section 10. Clerk. There may be a agency clerk who shall be appointed by the agency manager. The agency clerk shall serve at the pleasure of the agency manager and shall:

- (a) Give notice of board meetings to its members and the public.
- (b) Keep the journal and minutes of the proceedings of the board and its committees, which shall be public records.
- (c) Authenticate by signature and record in full in books kept for that purpose all ordinances and resolutions passed by the board.
- (d) Be the custodian of the agency seal.
- (e) Perform such other duties as may be assigned by the agency manager.

Section 11. Establishment of additional departments. The board may establish such other departments as it determines necessary for the efficient administration and operation of the agency.

Section 12. Fiscal year. The fiscal year of the agency shall begin on the first day of October and end on the last day of September.

Section 13. Submission of budget and budget message. On or before the 15th day of July of each year, the agency manager shall submit to the board a budget. It shall outline the financial policies of the agency for the ensuing fiscal year; describe the important features of the budget; indicate any major changes from the current year in financial policy, including any changes in budgetary accounting methods from the current year expenditures and revenues together with the reasons for such changes; summarize the agency's debt position; and include such other material as the agency manager deems necessary.

Section 14. Board action on the budget. The board shall adopt the budget by resolution on or before the 30th day of September of each year.

Section 15. Budget amendments.

(a) SUPPLEMENTAL APPROPRIATIONS. If, during the fiscal year, the agency manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the board, by resolution, may make supplemental appropriations for the year up to the amount of such excess, so long as a fiscally responsible reserve is maintained.

(b) EMERGENCY APPROPRIATIONS. To meet a public emergency affecting life, health, property, or the public peace, the board, by resolution, may make emergency appropriations. To the extent that there are no unappropriated revenues to meet such appropriations, the board may by such emergency resolution authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals in any fiscal year shall be paid not later than the last day of the fiscal year succeeding that in which the emergency appropriations were made.

(c) REDUCTION OF APPROPRIATIONS. If, during the fiscal year, it appears probable to the agency manager that the revenues available will be insufficient to meet the amount appropriated, the agency manager shall report to the board without delay, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any

other steps to be taken. The board shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose may, by resolution, reduce one or more appropriations.

(d) TRANSFER OF APPROPRIATIONS. At any time during the fiscal year, the agency manager may transfer any unencumbered appropriations among programs within the agency.

Section 16. First-year expenses. The board, in order to provide moneys for the expenses and support of the agency, shall have the power to borrow money necessary for the operation of public works until such time as a budget is adopted and revenues are raised.

Section 17. 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 18. 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 Murphy and seconded by Council Member Cereceda and, upon being put to a vote, the result was as follows:

Anita T. Cereceda	<u>aye</u>
Daniel Hughes	<u>aye</u>
John Mulholland	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

DULY PASSED AND ENACTED this 24th day of January, 2000.

ATTEST:

By: Marsha Segal-George
Marsha Segal-George, Town Clerk

Approved as to form by
Richard V.S. Roosa
Richard V.S. Roosa, Town Attorney

TOWN OF FORT MYERS BEACH

By: John J. Mulholland
John J. Mulholland, Mayor