



## Fort Myers Beach Charter Review Commission

Town Hall Council Chambers  
6231 Estero Boulevard  
Fort Myers Beach, FL 33931  
Tuesday, January 6, 2026

Agenda

2:00 PM

### ORDER OF BUSINESS

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. ROLL CALL
- IV. PUBLIC COMMENT
- V. APPROVAL OF MINUTES
  - A. Charter Review Committee - December 2, 2025
- VI. MEMBER ITEMS
  - A. CRC Member Zuba  
Draft Ethics Inclusion
- VII. OLD BUSINESS
  - A. Recap of ARTICLE IV. CHARTER OFFICES from December 2, 2025 meeting
  - B. Proposed Changes / Discussions to date
- VIII. NEW BUSINESS
  - A. ARTICLE V. NOMINATIONS AND ELECTIONS; TERMS OF OFFICE
  - B. ARTICLE VI. TOWN MANAGER
- IX. NEXT MEETING DATE - TUESDAY, FEBRUARY 3, 2026
- X. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON [YOUTUBE](#).



For special accommodation, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202

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## Fort Myers Beach Charter Review Commission

Town Hall Council Chambers  
6231 Estero Boulevard  
Fort Myers Beach, FL 33931

Minutes

Tuesday, December 2,  
2025

2:00 PM

### ORDER OF BUSINESS

#### I. CALL TO ORDER

Members present: Anita Cereceda, Michele Cherney, Chair Jim Dunlap, Ed Schoonover, Bryan Thomas, and Henry Zuba.

Excused: Beverly Milligan

Staff: Town Clerk Amy Baker and Town Attorney Nancy Stuparich.

Mr. Thomas moved to accept Ms. Milligan's absence, seconded by Ms. Cherney.  
The motion carried unanimously.

#### II. PLEDGE OF ALLEGIANCE

#### III. ROLL CALL

#### IV. PUBLIC COMMENT

#### V. APPROVAL OF MINUTES

##### A. Charter Review Commission - November 4, 2025

##### **Charter Review Commission - November 4, 2025**

Mr. Zuba moved to approve the minutes, seconded by Chair Dunlap.  
The motion carried unanimously.

#### VI. MEMBER ITEMS

No items.

#### VII. OLD BUSINESS

##### A. Harbor Master Ludwig

##### **Town Boundaries**

Harbormaster Curtis Ludwig explained that the jurisdiction surrounding Big

Carlos Pass is a 1,000-foot perimeter that extends into Ostego Bay and wraps around the island. That put them about halfway into Big Carlos Pass, but Lee County was responsible for dredging that inlet, not the town.

Harbormaster Ludwig noted that he would send them a map with the boundary. Mr. Schoonover felt that a legal description of the town's jurisdiction should be clearer. Chair Dunlap suggested that Mr. Dunlap propose language to discuss. Town Attorney Stuparich suggested putting the item on the list.

B. Approved Resolution 25-328: Excused Absences

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, AMENDING AND RESTATING RESOLUTION 25-300 TO INCLUDE GUIDANCE REGARDING UNEXCUSED ABSENCES OF ANY INDIVIDUAL SERVING ON THE TOWN OF FORT MYERS BEACH CHARTER REVIEW COMMISSION; AND PROVIDING AN EFFECTIVE DATE.**

Chair Dunlap noted that the town council approved the resolution.

Mr. Schoonover questioned the language in Section Two, letter B. Town Attorney Stuparich explained that Ms. Cereceda would be a voting member, since Ms. Mulligan was absent.

## VIII. NEW BUSINESS

A. ARTICLE IV. CHARTER OFFICERS

**Review of Article IV of the Town Charter**

Three handouts discussing Article IV were included in the agenda packet and discussed. Sections for further review, changes or recommendations are noted below.

4.01(b) Council members; elections: marked for discussion later.

It was discovered that members were discussing multiple versions of the charter. The correct version will be distributed and uploaded to the website.

It was noted that the correct version was displayed on the screen.

Notes for 4.02 Mayor: In the absence of an election, the mayor shall serve until the next election. The mayor may choose to leave the position with notice to the council. The council may vote by majority to select an alternative council member to serve as mayor. The council may remove the sitting mayor by majority vote at any time.

Town Attorney Stuparich reviewed the Town Council Policies and Procedures and will provide a copy to each member. Ms. Cherney agreed to draft language identifying the mayor's responsibilities for discussion at the next meeting.

Marked for discussion: Recommend advising that Resolution 23-182 provide that the mayor, vice mayor or council members can have an additional role working with the town manager during a state of emergency as an annotation, not part of the charter.

Change 4.04 (b) Prohibitions: No present or former elected town official shall hold any compensated appointive office or employment with the town until 1

year after the expiration of the official's ~~elected term~~ service.

4.05 (a) Compensation: Continue the discussion.

Add to 4.06 Vacancies: A vacancy in the office of a council member shall occur upon:

1. Death, resignation, or removal from office;
2. Forfeiture of office under Section 4.07;
3. ~~Loss of residency or~~ Failure to maintain qualifications for office;
4. Failure to assume office within 30 days of election or appointment;
5. Judicial determination of ineligibility or vacancy.

4.07 Forfeiture of office: marked for further discussion regarding due process for removal of office by council.

Add to 4.11 Meetings: All meetings, except as provided by law, shall be public and shall be scheduled to commence no earlier than 7 a.m. nor later than 10 p.m.

B. ARTICLE V. NOMINATIONS AND ELECTIONS; TERMS OF OFFICE

**Review of Article V of the Town Charter**

To be discussed at the next meeting.

**IX. NEXT MEETING DATE**

Tuesday, January 6, 2026

**X. ADJOURNMENT**

Mr. Zuba moved to adjourn, seconded by Mr. Schoonover.

The motion carried unanimously.

The meeting was adjourned at 2:47 p.m.

Council members duties/responsibilities:

At every council meeting, council members are required to disclose any “ex parte

Communications from any applicant who may be seeking council approval for a future zoning action or any other item coming before the Board.

2. In addition to disclosing ex-parte communications, all council members are required to disclose meetings, social contacts, meals, drinks, travel, etc. with any applicant and are required to pay for their own expenses. Such expenses may be reimbursed by the town.

3. all council members are required to disclose any conflicts of interest on items coming before them. Such conflicts may arise by an approval of an action which may benefit the member monetarily or in other disclosed manners.

# The Town of Fort Myers Beach

Incorporated December 1995



# CHARTER

Adopted            (add adoption date)

|                      |                                                   |
|----------------------|---------------------------------------------------|
| <b>ARTICLE I.</b>    | <b>CORPORATE NAME; PURPOSE OF THE CHARTER</b>     |
| <b>ARTICLE II.</b>   | <b>TERRITORIAL BOUNDARIES</b>                     |
| <b>ARTICLE III.</b>  | <b>GENERAL POWERS OF THE MUNICIPALITY</b>         |
| <b>ARTICLE IV.</b>   | <b>CHARTER OFFICERS</b>                           |
| <b>ARTICLE V.</b>    | <b>NOMINATIONS AND ELECTIONS; TERMS OF OFFICE</b> |
| <b>ARTICLE VI.</b>   | <b>TOWN MANAGER</b>                               |
| <b>ARTICLE VII.</b>  | <b>TOWN CLERK</b>                                 |
| <b>ARTICLE VIII.</b> | <b>TOWN ATTORNEY</b>                              |
| <b>ARTICLE IX.</b>   | <b>ADMINISTRATIVE DEPARTMENTS</b>                 |
| <b>ARTICLE X.</b>    | <b>ORDINANCES AND RESOLUTIONS</b>                 |
| <b>ARTICLE XI.</b>   | <b>FINANCIAL PROCEDURES</b>                       |
| <b>ARTICLE XII.</b>  | <b>INITIATIVE AND REFERENDUM</b>                  |
| <b>ARTICLE XIII.</b> | <b>CHARTER AMENDMENTS</b>                         |
| <b>ARTICLE XIV.</b>  | <b>SEVERABILITY</b>                               |

## **ARTICLE I. CORPORATE NAME; PURPOSE OF THE CHARTER**

### **Sec. 1.01. Town of Fort Myers Beach.**

The municipality hereby established shall be known as the Town of Fort Myers Beach, Florida.

### **Sec. 1.02. Purpose of the charter.**

This charter is ordained and established by the people of the Town of Fort Myers Beach, Florida, to promote the general welfare and common good of the community by providing the framework for a municipal corporation to exercise municipal home rule powers under the Constitution and laws of the State of Florida.

## **ARTICLE II. TERRITORIAL BOUNDARIES**

### **Sec. 2.01 Boundaries of the Town of Fort Myers Beach.**

The territorial boundaries of the Town of Fort Myers Beach upon the date of incorporation shall include the following areas situated in the County of Lee, State of Florida:

A corporate limit lying offshore from Estero Island, which line is described as follows: all that part of Lee County situated within Estero Island and the area within 1,000 feet in the Gulf of Mexico and 1,000 feet in the inland bays, and parallel with the shore line of said Estero Island, excluding all of San Carlos Island, Black Island and, structures exclusively attached thereto.

### **Sec. 2.02. Extension of the corporate limits; annexation.**

The corporate limits of the Town of Fort Myers Beach may be revised as provided by general law.

### **ARTICLE III. GENERAL POWERS OF THE MUNICIPALITY**

#### **Sec. 3.01. (Need title)**

The Town of Fort Myers Beach shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. The powers of the Town of Fort Myers Beach shall be construed liberally in favor of the municipality, limited only by the Constitution, general law, and specific limitations contained herein.

#### **Sec. 3.02. Joint exercise of powers.**

The town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with any one or more states, counties, municipalities, or any agencies thereof, or the United States or any agency thereof.

## ARTICLE IV. CHARTER OFFICERS

### Sec. 4.01. Council members; elections.

(a) There shall be a town council, hereinafter referred to as the council, with all legislative powers of the town vested therein, consisting of five council members, all of whom shall be elected from the town at-large.

(b) Council seats shall be designated as seats #1, #2, #3, #4, and #5. All qualified candidates shall be deemed to be seeking election to all open council seats. Assignment of open seat numbers shall be alphabetically by incoming Council members' last names.

**12/2/25 DISCUSSION ITEM: 4.01(b) Concerns regarding use of seat numbers and at-large elections.**

(c) Each member of the council shall be a resident of the town and a registered voter and shall have resided within the corporate limits of the municipality for a minimum of 1 year prior to qualifying for election.

(d) The council are elected officials who are accountable to the citizens at regularly held elections and who are subject to recall as provided by law. The citizens, through these processes, have the opportunity to elect, reelect, or dismiss their elected officials whose promise of performance or actual performance in office best reflects the policies which the citizens desire to implement in the government of the town.

(e) Policy making is the sole prerogative of the elected council. Administrative staff, whether hired or appointed under terms of this charter, is subordinate to the elected officials, whose power derives from the consent of, and election by, the citizens of the town.

(f) Except as otherwise prescribed herein or provided by law, legislative and police powers of the town shall be vested in the council, including the establishment of boards, commissions, and committees. The council shall provide for the exercise of its powers and for the performance of all duties and obligations imposed on the municipality by law.

### Sec. 4.02. Mayor.

At the first regularly scheduled meeting following the town's regular election, the council, by majority vote, shall elect from its membership a mayor. The mayor shall serve as chairperson during meetings of the council and shall serve as the head of municipal government for the purpose of execution of legal documents as required by ordinance. The mayor shall also serve as the ceremonial head of the town.

(a) In non-election years the election of mayor and vice-mayor shall be at the first regularly scheduled meeting in November.

**12/2/25 POLICY DISCUSSION ITEM:** 4.02 Policy discussion regarding duration of service as Mayor.

In the absence of an election, the Mayor shall serve until the next election.  
The Mayor may choose to leave the position with notice to Council.  
The Council may vote by majority to select an alternative Council Member to serve as Mayor.  
The Council may remove a sitting Mayor with a majority vote at any time.

**\*\* Alt. Member Cherney will bring additional language to the January meeting for further discussion of the role of Mayor.**

#### **Sec.4.03. Vice mayor.**

At the first regularly scheduled meeting following the town's regular election, the council, by a majority vote, shall elect from among its membership a vice mayor who shall serve as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become interim mayor pursuant to section 4.08 of this charter.

- (a) In non-election years the election of mayor and vice mayor shall be at the first regularly scheduled meeting in November.
- (b) Should the vice mayor become interim mayor, then, the council, by a majority vote, shall elect from its membership an interim vice mayor who shall serve as mayor during the absence or disability of the interim mayor.

#### **Sec. 4.04. Prohibitions.**

(a) Neither the council, nor any individual member of the council, shall in any manner dictate the employment or removal of any employee other than the town manager and town attorney. No individual member of the council shall give orders to any officer or employee of the town. Recommendations for the improvements in the town government operations shall come through the town manager, but each member of the council shall be free to discuss or recommend improvements to the town manager, and the council is free to direct the town manager to implement specific recommendations for improvement in town government operations. Violations of this Section of the Charter shall constitute malfeasance within the meaning of Section 100.361, Florida Statutes, as may be amended.

(b) No present or former elected town official shall hold any compensated appointive office or employment with the town until 1 year after the expiration of the official's elected term.

**12/2/25 DISCUSSION ITEM:** 4.04(b) After the cessation of the official's service.

#### **Sec. 4.05. Compensation.**

(a) Effective April 1, 2016, base pay for the Mayor will be \$19,200 annually and Council Members will be \$16,800 annually as compensation for their services. Compensation shall be revised annually based on across-the-board adjustments budgeted for staff and administered at the same time as Town employees.

**12/2/25 DISCUSSION ITEM:** 4.05(a) Section 2-19 of Code of Ords. May require revision. service.

- Delete reference to salary amounts.
- Consider creating a Blue Ribbon Committee to evaluate salary amounts v. COLA.
- Reference to “salary” when Council members are not employees v. “compensation”

**\*\* Member Dunlap to provide language regarding Blue Ribbon Committee at January meeting.**

**RESEARCH:** Council benefits in addition to compensation. (Health Insurance)  
Input from HR? Cost of health care for Council?

(b) The council may provide for reimbursement of actual expenses incurred by its members while performing their official duties.

#### **Sec. 4.06. Vacancies.**

The office of a member of the council shall become vacant upon the member's inability to fulfill the duties of the office, resignation, or removal from office as authorized by law or this charter.

**12/2/25 DISCUSSION ITEM:** 4.06 Vacancies need to be defined.

Add from Alt. Member Cherney’s handout:

(a) Events Creating a Vacancy.

A vacancy in the office of a Council member shall occur upon:

1. Death, resignation, or removal from office;
2. Forfeiture of office under Section 4.07;
3. Loss of residency or failure to maintain qualifications;
4. Failure to assume office within 30 days of election or appointment;
5. Judicial determination of ineligibility or vacancy.

**\*\* Bring to January meeting: further discussion regarding due process for removal of office by Council.**

**\*\* Define “unexcused absence”**

#### **Sec. 4.07. Forfeiture of office.**

A member of the council may forfeit the office, if the member:

- (a) Lacks at any time during the term of office any qualification for the office prescribed by this charter or by law;
- (b) Violates any express prohibition of this charter;
- (c) Is convicted of a felony or criminal misdemeanor which misdemeanor involves the office of town council; or
- (d) Misses three consecutive regularly scheduled council meetings without an excused absence.
- (e) Does not maintain a permanent residence in the Town of Fort Myers Beach.

If any of these events should occur, a hearing shall automatically be conducted at the next regularly scheduled council meeting, and the member may be declared to have forfeited office by majority vote of the council.

#### **Sec. 4.08. Filling of vacancies.**

A vacancy on the council, except for the position of mayor, shall be filled by appointment by majority vote of the council members remaining, and said appointment shall be effective until a successor is chosen at the next regular election. In the event that a majority of the members are removed by death, disability, law, or forfeiture of office, the governor shall appoint an interim council that shall call a special election to be held within 45 days following the occurrence of the vacancies to elect a new council. In the event that the mayor becomes unable to fulfill the duties of office, ceases to be qualified, or is removed from office as provided by law or this charter, the vice mayor shall assume the full powers and duties of the mayor. The vice mayor shall assume the office of mayor for the remainder of the unexpired term. The council vacancy thus created shall be filled by an interim appointment under the provisions of this charter, to be effective only until such time as the mayor resumes office or until the expiration of the term of the office, whichever occurs first.

#### **Sec. 4.09. Judge of qualifications.**

The council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A council

member charged with conduct constituting grounds for forfeiture of this office shall be notified by the town clerk by certified mail and shall be entitled to a public hearing at the next regularly scheduled meeting of the council as outlined in section 4.07 of this charter. Notice of such hearing shall be published in one or more newspapers of general circulation in the town at least 1 week in advance of the hearing.

#### **Sec. 4.10. Independent financial audit.**

The council shall provide for an independent annual financial audit of all town accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or a firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the town government or in any of its officers. Residency in the town shall not be construed as a prohibited interest.

#### **Sec. 4.11. Meetings.**

The council shall meet regularly at least eight times per year and shall meet no less often than bimonthly at such times and locations within the boundaries of the town as the council may prescribe. Special meetings may be held on the call of the mayor or the town manager and with reasonable 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. A special meeting may be held outside the town with reasonable notice. All meetings, as provided by law, shall be public and shall be scheduled to commence no earlier than 7 a.m. nor later than 10 p.m.

ADDED at 12.2.25 meeting "as provided by law"

#### **Sec. 4.12. Rules.**

The council shall determine its own rules and order of business and shall provide for keeping minutes of its proceedings. The minutes shall be public records. The Town Council shall maintain a Policies and Procedures Manual that provides guidelines for how it will operate.

#### **Sec. 4.13. Voting; quorum.**

Roll call voting shall be required for ordinances or upon the specific request of a council member and shall be recorded in the minutes; otherwise, voting shall be by ayes and nays. Three members of the council shall constitute a quorum. No action of the council shall be valid or binding unless adopted by the affirmative vote of at least three members of the council, except in an emergency situation. All council members in attendance shall vote on all council actions, except when, with respect to any such member, there is, or appears to be, a possible conflict of interest as defined under general law.

## **ARTICLE V.     NOMINATIONS AND ELECTIONS; TERMS OF OFFICE**

### **Sec. 5.01. Elections.**

The regular election of the members of the Town Council shall be held on the first Tuesday after the first Monday in November, or as otherwise provided by general law. The time period that candidates must qualify shall be from noon of the 50<sup>th</sup> day prior to the election to noon of the 46<sup>th</sup> day, or as adjusted by a holiday or leap year.

### **Sec. 5.02. Commencement of Term.**

The term of a member of the council shall begin at the first council meeting following the general election.

### **Sec. 5.03. Terms of office.**

The terms for all council seats, #1, #2, #3, #4, and #5, shall be for four (4) years, seats #1 and #2 shall initially be for a term from March 2019 to November 2023, and seats #3, #4, & #5 shall be for a term from March 2020 to November 2024. No member of the council shall serve for more than two consecutive full terms. After 1 year out of office, a candidate may re-qualify for any vacant seat.

### **Sec. 5.06. Nonpartisan elections.**

All elections for officers of the town shall be conducted on a nonpartisan basis without any designation of political party affiliation.

### **Sec. 5.07. Multiple candidates.**

In the event that more candidates qualify for election than there are open council seats, those candidates shall participate in the regular election and the candidate or candidates receiving the most votes cast shall be elected to the open council seat or seats.

### **Sec. 5.08. Recall.**

The qualified electors of the municipality shall have the power to recall and to remove any elected official of the town as prescribed by general law.

### **Sec. 5.09. Town canvassing board.**

The town canvassing board shall be composed of a Town Council Member, selected by Town Council, who is not a candidate for reelection, the Town Manager and the Town Clerk, who shall act as chairperson. At the close of polls of any town election, or as soon thereafter as practicable, the canvassing board shall meet at a time and place designated by the chairperson and shall proceed to publicly canvass the vote as shown by the returns then on file in the Office of the Supervisor of Elections. The Board shall prepare and sign a

certificate containing the total number of votes cast for each person or other measure voted on. The certificate shall be placed on file with the Town Clerk.

## **ARTICLE VI. TOWN MANAGER**

### **Sec. 6.01. Appointment and qualifications.**

The council shall appoint a town manager. The town manager shall be appointed primarily on the basis of executive and administrative qualifications.

### **Sec. 6.02. Removal.**

The council may remove the town manager for any reason by affirmative vote of at least 3 members of the council. If the vote is less than unanimous by all council members, the town manager may, within 7 days of the dismissal motion by council, submit to the mayor a written request for reconsideration. Any action taken by the council at the reconsideration hearing shall be final.

### **Sec. 6.03. Powers and duties.**

The town manager shall be the chief administrative officer of the town and shall implement and administer all ordinances, resolutions, and policies adopted by the council and shall perform such other duties as may be required by the council or law. The town manager shall be responsible to the council and shall have the following powers and duties:

- (a) To hire or fill existing positions and, when the town manager deems it necessary for the good of the town service, suspend or remove town employees, except as otherwise provided by law or this charter.
- (b) To direct and supervise the administration of all employees, departments, and agencies of the town, except as otherwise provided by this charter or by law.
- (c) To attend all council meetings and shall have the right to take part in discussion but may not vote.
- (d) To ensure that all laws, provisions of this charter, and acts of the council, subject to enforcement by the town manager or by officers subject to the town manager's direction and supervision, are faithfully executed.
- (e) To submit to the council and make available to the public a complete report on the administrative activities of the town as of the end of each fiscal year.

- (f) To make such other reports as the council may require concerning the operation of town departments, offices, and agencies subject to the town manager's direction and supervision.
- (g) To keep the council fully advised as to the condition and future needs of the town and to make written recommendations to the council concerning the affairs of the town.
- (h) To perform the duties of town clerk in addition to the duties of town manager during any period of time so appointed by the council.
- (i) To perform such other duties as are specified in this charter or as may from time to time be assigned by the council.

## **ARTICLE VII. TOWN CLERK**

### **Sec. 7.01. [Appointed by town manager; duties and powers.]**

There may be a town clerk who shall be appointed by the town manager with the consent of the council. The town clerk shall serve at the pleasure of the town manager and shall:

- (a) Give notice of council meetings to its members and the public.
- (b) Keep the journal and minutes of the proceedings of the council 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 council.
- (d) Be the custodian of the town seal.
- (e) Have the power to administer oaths.
- (f) Perform such other duties as may be assigned by the town manager.

## **ARTICLE VIII. TOWN ATTORNEY**

### **Sec. 8.01. [Appointed by town council; duties; removal procedure.]**

There shall be a town attorney appointed by the council, who may represent the town in all legal proceedings and shall perform all other duties assigned by the council. The council may remove the town attorney for any reason by motion requiring three affirmative votes.

## **ARTICLE IX. ADMINISTRATIVE DEPARTMENTS**

### **Sec. 9.01. Establishment of additional departments.**

The council may establish such other departments as it determines necessary for the efficient administration and operation of the town; such departments, offices, or agencies shall be established by ordinance.

## **ARTICLE X. ORDINANCES AND RESOLUTIONS**

### **Sec. 10.01. Definition of ordinances and resolutions.**

As used in this charter, the following words and terms shall have the following meanings unless some other meaning is plainly indicated:

- (a) *Ordinance* means an official legislative action of the council, which action is a regulation of a general and permanent nature and enforceable as a local law.
- (b) *Resolution* means an expression of the council concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the town.

### **Sec. 10.02. Adoption of ordinances.**

Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject and matters properly connected therewith, which shall be clearly expressed in its title. The enacting clause for an ordinance shall be: "IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS..."

- (a) An ordinance may be introduced by any member at any regular or special meeting of the council. A proposed ordinance may be read by title, or in full, on at least two separate council meeting days and shall, at least 10 days prior to adoption, be noticed once in a newspaper of general circulation in the town. The notice of proposed enactment shall state the date, time, and place of the meeting; the title of a proposed ordinance; and the place or places within the town where such proposed ordinance may be inspected by the public.
- (b) The council, as provided by general law, may adopt an emergency ordinance without complying with the requirements of notice expressed in the foregoing paragraph. An emergency ordinance shall become effective upon adoption and automatically stand repealed as of the 61st day following

the date on which it was adopted. This shall not prevent reenactment of such an ordinance under regular procedures.

- (c) Ordinances which rezone specific parcels of private real property or which substantially change permitted use categories shall be enacted pursuant to general law.
- (d) An ordinance shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the mayor and the town clerk. A copy of the ordinance shall be available in the town hall.

### **Sec. 10.03. Adoption of resolutions.**

Every proposed resolution shall be introduced in writing and in the form required for final adoption. No resolution shall contain more than one subject which shall be clearly expressed in its title. The clause which shall be used for all resolutions approved by the council shall be: "IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS..." A resolution may be introduced by any member at any regular or special meeting of the council. A resolution shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the mayor and the town clerk. A copy of the resolution shall be available in the town hall.

## **ARTICLE XI. FINANCIAL PROCEDURES**

### **Sec. 11.01. Fiscal year.**

The fiscal year of the town shall begin on the first day of October and end on the last day of September.

### **Sec. 11.02. Submission of budget and budget message.**

On or before the 15th day of July of each year, the town manager shall submit to the council a budget in accordance with state law. It shall outline the financial policies of the town 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 town's debt position; and include such other material as the town manager deems necessary.

### **Sec. 11.03. Council action on the budget.**

The council shall adopt the budget by resolution on or before the 30th day of September of each year.

### **Sec. 11.04. Public records.**

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable locations in the town.

**Sec. 11.05. Budget amendments.**

(a) *Supplemental appropriations.* If, during the fiscal year, the town manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the council, 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 council, by resolution, may make emergency appropriations. To the extent that there are no unappropriated revenues to meet such appropriations, the council 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 town manager that the revenues available will be insufficient to meet the amount appropriated, the town manager shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any other steps to be taken. The council 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 town manager may transfer any unencumbered appropriations among programs within a department, office, agency or a program provided by inter local agreement and, upon written request by the town manager, the council may by resolution transfer between funds any unencumbered appropriations from one department, office, agency or a program provided by inter local agreement to another.

## **ARTICLE XII. INITIATIVE AND REFERENDUM**

### **Sec. 12.01. Initiative and referendum.**

At least 25 percent of the qualified electorate of the town shall have the power to petition the council to propose an ordinance or to require reconsideration of an adopted ordinance, and if the council fails to adopt such ordinance so proposed, or to repeal such adopted ordinance, without any change in substance, then the council shall place the proposed ordinance, or the repeal of the adopted ordinance, on the ballot at the next municipal election.

## **ARTICLE XIII. CHARTER AMENDMENTS**

### **Sec. 13.01. Initiation by ordinance.**

The council may, by ordinance, propose amendments to any or all of this charter to be submitted to the electors, as provided by general law.

### **Sec. 13.02. Initiation by petition.**

The electors of the town may propose amendments to this charter by petition to be submitted to the council to be placed before the electors, as provided by general law.

### **Sec. 13.03. Charter review.**

The charter will be reviewed at least every 10 years. A five-member charter review commission shall be appointed and funded by the council. The charter review commission shall be appointed at least 6 months before the next scheduled election and complete its work and present any recommendations to the Council for change no later than 60 days before the election. The council shall hold a minimum of two public hearings to approve, reject or modify the proposed changes to the charter prior to placing the proposed changes on the scheduled election ballot.

## **ARTICLE XIV. SEVERABILITY**

### **Sec. 14.01. Invalidity of character provision or application.**

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of this charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

End of document.

## Council Compensation Background & Information Brief

### 1. Current Fort Myers Beach Council Compensation Policy

The Town Charter establishes the base salaries:

- Mayor: \$19,200
- Council Member: \$16,800

The Charter further requires that:

*“Compensation shall be revised annually based on across-the-board adjustments budgeted for staff and administered at the same time as Town employees.”*

#### COLAs Implemented

- FY 2024: +1.8%
- FY 2025: +2.6%

These COLAs were properly applied as follows:

| Role           | Charter Base | +1.8% (FY24) | +2.6% (FY25) | Current Annual |
|----------------|--------------|--------------|--------------|----------------|
| Mayor          | \$19,200     | \$19,545.60  | \$20,053.79  | \$20,053.79    |
| Council Member | \$16,800     | \$17,102.40  | \$17,546.06  | \$17,546.06    |

#### Note on Implementation Lag

There was an identifiable lag in prior years during which COLAs were not applied annually. The Charter intended for adjustments to occur each year when staff COLAs were implemented.

To show the effect of consistent annual COLAs, below is an example of a 2% year-over-year COLA beginning in 2020:

| Position       | 2020 Starting Salary | After 5 Years at 2% COLA |
|----------------|----------------------|--------------------------|
| Mayor          | \$19,200             | \$21,708.74              |
| Council Member | \$16,800             | \$18,553.54              |

### 2. Regional Compensation Benchmarks (SWFL + Treasure Island)

These values reflect a general scan of similarly structured or geographically comparable municipalities.

| Municipality    | Council Salary                          | Mayor Salary         |
|-----------------|-----------------------------------------|----------------------|
| Fort Myers      | \$25,000                                | \$67,912             |
| Cape Coral      | ~\$32,000 (proposed)                    | ~\$42,000 (proposed) |
| Estero          | ~\$16,000–\$22,000 (varies by workload) | ~\$20,000–\$28,000   |
| Marco Island    | \$6,000 (increase rejected by voters)   | \$9,000              |
| Sanibel         | \$0                                     | \$0                  |
| Treasure Island | ~\$5,400                                | ~\$7,800             |

Notes:

- Estero’s compensation varies based on workload, which may include meeting frequency, project volume, and intergovernmental responsibilities.
- Sanibel provides no salary; members are reimbursed for expenses only.
- Larger cities (Fort Myers, Cape Coral) compensate at materially higher levels due to scale and scope.

### 3. Example Market-Based Compensation Adjustment (If Ever Considered)

Neutral illustration based on regional norms:

- Mayor: ~\$24,000 base salary  
(Aligns with Estero upper range; below larger municipalities.)
- Council Members: ~\$20,000 base salary  
(Moderate adjustment reflecting SWFL averages for similar size and workload.)

This is provided only as contextual information and not as a formal recommendation.

### 4. Charter vs. Ordinance: How Council Compensation Can Be Changed

How Compensation Changes Must Occur

1. If compensation is set in the Charter → any change requires voter approval.
2. If the Charter *allows* compensation to be set by ordinance → Council may adjust it by ordinance.

3. Best practice: No compensation change should take effect mid-term.
4. The Charter Review Commission proposes ideas but cannot enact changes.
5. Council votes to place charter amendments on the ballot.
6. Voters approve or reject changes.

This framework ensures transparency, accountability, and public involvement.

## 5. General Policy Considerations

These are commonly adopted standards in municipal governance to avoid conflict of interest and maintain public trust. These do not imply required or recommended adoption.

### 1. Election-Cycle Effective Date

Any increase in compensation takes effect only after the next regular Town election, applying only to Council Members whose new terms begin thereafter.

*Purpose: avoids mid-term benefit and protects public trust.*

### 2. Annual Adjustment Language Clarification

Council compensation is automatically adjusted each October 1 by the same across-the-board percentage increase granted to non-bargaining Town employees.

*Purpose: consistency and clarity.*

### 3. Voter Approval for Structural Changes

Any change to the base compensation levels or to the adjustment mechanism requires voter approval through charter amendment.

*Purpose: ensures key structural elements remain in voter control.*

### 4. Option to reject any part or all of their salary.

Council Members may voluntarily decline all or a portion of their compensation at any time without affecting the compensation structure for other Council Members. Any declination is personal to the individual and does not alter the established salary, benefits, or future adjustments set by ordinance or charter.

*Purpose: preserves individual discretion while ensuring compensation policy remains uniform, predictable, and not influenced by personal decisions of any one elected official.*

#### Blue Ribbon Committee Recommendation:

The Naples City Charter, as detailed in various city documents and news reports, outlines the following regarding compensation:

- **Review Process:** Section 2.5(2) of the Charter requires the appointment of an independent, seven-member Blue Ribbon Committee every four years to study and make recommendations on compensation.
- **Voting Authority:** The City Council has the authority to vote on and adopt the committee's recommendations via ordinance.
- **Rejection Option:** The Mayor or any council member may individually elect to reject all or any part of their salary.
- **Other Employment:** No member of the City Council, including the Mayor, shall hold any other office in the city government except as provided by the charter.

For official documentation regarding the city charter and ordinances, you can visit the City of Naples official website.

**This information is provided for reference and informational purposes only.**

Beverley Milligan comments for discussion on Articles 4 and 5 of the Charter.

**Sec. 4.01 (d)** “The council are elected officials who are accountable to the citizens at regularly held elections and who are subject to recall as provided by law.....”

**Comment:** There needs to be some recognition of all who pay property taxes on Estero Island in the Charter and perhaps it should be in this section. While Eligible Voters elect council members, as per Florida law, it is important to recognize and build on the historically and culturally ingrained belief of “no taxation without representation”.

As an example of the extreme.....There is precedent, at the local level where an Eligible Voter, is anyone who:

Qualifications

(2) A person is entitled to be an elector at an election held in a local municipality if, on voting day, he or she,

(a) Resides in the local municipality or is the owner or tenant of land there, or the spouse of such owner or tenant;

(b) Etc.

This example pushes the Eligible Voter to include the local Property Tax Payer/owner and their spouse. Perhaps FCGU research could include this in their scope of study.

While I recognize the idea of a local property tax payer/owner being eligible to vote at the local level is out of scope for the FMB Charter, as it is a state issue, it is in scope to, at the very least, to recognize all island property taxpayers in the Charter.

Therefore, I strongly urge the committee to recommend the establishment of:

Sec 4.01 (d.1) While the council is elected by its Eligible Voters as provided by Florida law, Estero Island property tax payers also include, seasonal and temporary residents, as well as business owners – all not eligible to vote locally, but necessary for the health of the economy on Fort Myers Beach.

**Sec.4.02** “.....the council, by majority vote, shall elect from its membership a mayor.....The mayor shall also serve as the ceremonial head of the town.”

Comment: Since hurricane Ian, the Mayoral role has taken on a life of its own. This role, in my humble opinion, is far more than ceremonial. While the Mayor has one vote, like all other councilors, the influence and impact, through media, travel to Washington and other forms of lobby, grant the Mayor far more cache than other councilors. I therefore, urge our committee to discuss and revisit the Mayor role based on the reality of his/her impact on the FMB Community today. My discussion questions are as follows:

1. Should voters elect the Mayor?
2. Should the qualification to run for Mayor be, a property tax payer and Eligible Voter?

Thank you, those are my comments.

Beverley Milligan

## CHARTER COMMITTEE INPUT

### ARTICLE IV. CHARTER OFFICERS

#### 4.01 – Council Members; elections

Add on, the Town encourages individuals seeking elections to the Town Council to have prior service on Town advisory boards, committees, or demonstrated civic involvement: however such experience is not required to qualify for office

#### 4.02 and 4.03 Mayor and Vice Mayor

Council, by majority vote elects its membership as Mayor and Vice Mayor in FMB

##### Pros

- Stability – Council chooses someone who works well with the Manager and other members.
- Experience-based leadership – The person selected is guaranteed to already understand the issues.
- Avoids political campaigning – Keeps the Mayor role non-political and cooperative.
- Prevents “strong mayor expectations” – Residents won’t assume Mayor has executive power.
- Encourages teamwork – Mayor must maintain good relationships with all Council members.
- Common in small towns – Best fit for council–manager governments where Manager runs operations.

##### Cons

- Residents do not vote directly – Some people feel disconnected from choosing the community “face.”
- Can appear “insider” or political – If Council factions emerge, the Mayor selection can feel political.
- Role can rotate too often – If Council re-selects yearly, continuity may be lost.
- Public may misunderstand authority – People may still assume Mayor is “the boss” even when they are not.

### VOTER-ELECTED MAYOR (Treasure Island, Indian Rocks Beach, potentially Marco Island)

##### Pros

- Direct accountability to residents – Voters choose the person who represents the town publicly.

- Clear public mandate – Mayor carries visible legitimacy and strong community connection.
- Better communication expectations – Residents know who to hold responsible for messaging.
- More consistent public-facing leadership – Especially important during hurricanes and recovery.

#### **Cons**

- People may assume Mayor has strong executive power – This creates confusion unless clarified in Charter.
- Can politicize the office – Campaigning may become more intense or divisive.
- Risk of conflict with Council – If a voter-elected Mayor clashes with Manager or Council.
- Can weaken the Manager model – Residents may expect Mayor to run day-to-day operations, which they legally cannot.

#### **ONE-YEAR MAYORAL TERM** (Sanibel model)

##### **Pros**

- Allows rotation; more members get leadership experience
- Fast correction if Mayor is not effective
- Keeps role small and truly ceremonial
- Encourages teamwork
- Works well for stable, low-drama councils

##### **Cons**

- Too short for continuity — Mayor changes just as relationships and projects mature
- Residents get confused when leadership changes so often
- Makes the Town look unstable externally (to county, state, agencies)
- Bad fit during long-term recovery (e.g., post-hurricane projects)

#### **TWO-YEAR MAYORAL TERM** (Estero & Longboat Key model, and recommended for FMB)

##### **Pros**

- Provides continuity and consistency
- Mayor can build stronger relationships with residents, agencies, and staff
- Helpful for multi-year recovery and rebuilding efforts
- Reduces political maneuvering — Mayor not reselected every 12 months
- Still short enough to keep the role accountable

- Perfect middle ground for small towns

## **Cons**

- Council must live with their selection for two years
- Harder to correct leadership issues mid-term
- If a “bad fit” is chosen, tension lasts longer
- Residents still do not directly choose the Mayor (if keeping council-selected model)

## **SUMMARY**

### **Council-select Mayor + 2-year term = Best for small-town stability**

This matches Estero and Longboat Key and is ideal for Fort Myers Beach.

### **Voter-elected Mayor + 2-year term = Best for direct democratic legitimacy**

If your group prefers residents to choose their Mayor without creating a strong-mayor system.

**Avoiding 1-year terms keeps continuity, professionalism, and stable leadership during rebuilding years.**

## **4.02 – Mayor (Role Description lacking in Charter)**

### **SANIBEL – Mayor Role Description**

- Mayor elected by voters
- Presides over Council meetings
- Serves as official head of the City for ceremonial purposes
- Signs legal documents and contracts
- No administrative authority over staff
- No veto power
- Represents the community publicly during emergencies and major events

### **MARCO ISLAND – Mayor Role Description**

- Mayor elected by voters (separate office)
- Presiding officer at City Council meetings
- Official figurehead of the City
- Represents City in public, regional, and emergency settings

- Executes legal instruments on behalf of the City
- Cannot direct city staff (City Manager model)

### **ESTERO – Mayor Role Description**

- Mayor selected by the Council
- Serves as chairperson at Council meetings
- Ceremonial head of government
- Executes documents as required by Charter or ordinance
- Explicitly no administrative authority
- Clear separation between Mayor and Town Manager authority

### **Who Runs Fort Myers Beach During a Hurricane? Understanding the Mayor's Emergency Powers\*\***

Many residents believe the Mayor runs the Town during a hurricane or disaster.

In reality, the Town Charter creates a Council–Manager system, which gives operational authority to the Town Manager, not the Mayor.

Here is what that means during storms:

### **WHAT THE MAYOR DOES DO DURING AN EMERGENCY**

The Mayor's legal role is:

#### **1. Public Representation**

Speaks on behalf of the Council and the community.

#### **2. Ceremonial Head**

Represents the Town in regional briefings or press events.

#### **3. Meeting Chair**

Leads emergency Council meetings when decisions are needed.

#### **4. Signs Documents**

Executes official documents once Council votes.

#### **5. Supports Emergency Management**

Works with the Town Manager and County/State officials.

### **WHO ACTUALLY RUNS THE EMERGENCY RESPONSE?**

#### **The Town Manager**

The Town Manager has full operational authority, including:

- Emergency coordination
- Directing staff and departments
- Activating emergency plans
- Contracting for cleanup and recovery
- Communicating with county/state emergency officials
- Overseeing re-entry plans
- Managing shelters, staging areas, and debris operations

### **Lee County & The State**

These agencies control:

- Evacuations
- Re-entry clearance
- Search & rescue
- Major resource deployment
- Curfews and emergency orders

### **BOTTOM LINE FOR RESIDENTS**

The Mayor is the voice of the Town during a hurricane, but the Town Manager runs the response.

The Mayor leads communications, The Town Manager leads operations.

This is the system our Charter creates, and your Charter Review Committee is considering clarifying it for better public understanding.

### **Section 4.03 – Vice Mayor (Role Description lacking in Charter)**

- Acts as Mayor when the mayor is absent, they become the chair for that session
- Serves as “Acting Mayor” if the mayor resigns, becomes incapacitated, or the seat becomes vacant. They become acting Mayor immediately until the Council elects a new Mayor or until the term ends
- Supports the Mayor in Ceremonial Roles (when asked)
- Help maintain Council collaboration
- Has the same voting power as every council member
- Has no direct role in daily operations

### **4.04 – Prohibitions: (Interference with Staff)**

“Interference” is not defined. Recommendation following Estero

Interference means any attempt by a Council member to direct, supervise, command, influence, or control the work or duties of any Town employee, contractor, or consultant, except through the Town Manager.

Interference includes giving orders, influencing personnel decisions, or intervening in operational matters.

Interference does not include requests for information, responses to constituent concerns, or discussion during publicly noticed meetings

This avoids drama, politics, and staff confusion.

#### **4.05 – Compensation**

**Fort Myers Beach** - Pay automatically increases when staff pay increases.

**Sanibel** - Pay set by ordinance; changes voted on publicly.

**Marco Island** - Pay set by ordinance; no automatic raises.

**Estero** - Best model, Any raises only takes effect after the next election.

We should consider cost of living adjustments for council annually

#### **4.06 – Vacancies**

**Fort Myers Beach** - Council appoints replacements.

**Sanibel** - Council appoints it until next election.

**Marco Island** - Council appoints; special election depends on timing.

**Estero** - If short term left → appointment , If long term left → special election, Required timeline to fill seat (60 days)

#### Summary of Estero’s language

(A) Events Creating a Vacancy.

A vacancy in the office of a Council member shall occur upon:

1. Death, resignation, or removal from office;
2. Forfeiture of office under Section 4.07;
3. Loss of residency or failure to maintain qualifications;
4. Failure to assume office within 30 days of election or appointment;
5. Judicial determination of ineligibility or vacancy.

#### (B) Filling a Vacancy.

When a vacancy occurs, the Council shall fill the vacancy in accordance with the following procedures:

1. The Council shall appoint a qualified elector of the Town to fill the vacancy within sixty (60) days of its occurrence.
2. The appointment process shall be public, and shall include:
  - a. Public notice of the vacancy;
  - b. Acceptance of applications from eligible residents;
  - c. Public interviews conducted at a properly noticed meeting.

#### (C) Special Election Required in Certain Cases.

A special election shall be required when:

1. The remaining term of the vacant seat exceeds twenty-four (24) months, or
2. When required by state law.

A special election shall be held at the earliest date permitted under state election law.

The Council's appointee shall serve until the special election is certified.

#### (D) Term of Appointee.

If no special election is required, the appointed individual shall serve for the remainder of the unexpired term.

#### (E) Multiple Vacancies.

If vacancies occur in three (3) or more Council seats simultaneously, the Governor shall fill such vacancies by appointment pursuant to state law.

#### (F) Failure of Council to Act.

If the Council fails to fill a vacancy within the required sixty (60) days, the Town Clerk shall notify the Governor, who shall make the appointment pursuant to general law.

### 4.07 – Forfeiture of Office

- **Fort Myers Beach** - Very broad removal power, No detailed due process, No burden of proof, Little protection against political misuse
- **Sanibel** - Rely mostly on state recall law.
- **Marco Island** - Same — minimal internal framework.
- **Estero** Strong due process, written charges required, Public hearing, Right to counsel, Clear list of violations, Majority vote in public, Excused absence standards

Recommended language change modeling on Estero's Charter:

A Council member shall forfeit office upon the occurrence of any of the following:

1. Loss of residency or legal qualifications required for holding office.
2. Conviction of a felony, or any offense involving fraud, corruption, or moral turpitude.
3. Knowing and intentional violation of any provision of the Florida Sunshine Law, Public Records Law, the Town Charter, or state ethics laws.
4. Interference in administration, as defined in Section 4.04.
5. Unexcused absence from three (3) consecutive regular Council meetings.
6. Physical or mental incapacity preventing the member from performing official duties for more than ninety (90) consecutive days.

#### (B) Due Process Required

No Council member shall be removed from office except as follows:

1. Written charges stating the specific grounds for forfeiture shall be filed with the Town Clerk.
2. The accused Council member shall receive at least ten (10) days' written notice of a public hearing on the charges.
3. The Council shall conduct a public hearing where the accused member shall have the right to:
  - a. Be represented by counsel;
  - b. Present evidence and witnesses;
  - c. Cross-examine witnesses;
  - d. Make oral and written statements.
4. Following the hearing, the Council may, by majority vote of the full Council, determine that a forfeiture has occurred.
5. The decision shall be final and effective immediately upon adoption of the resolution of forfeiture.

#### (C) Temporary Suspension

The Council may, by majority vote, temporarily suspend a Council member facing criminal charges involving fraud, corruption, dishonesty, or breach of public trust.

A suspended member shall not receive compensation during suspension unless reinstated.

#### (D) Excused Absences

Absences shall be considered excused for:

1. Illness or medical incapacity;
2. Family emergency;
3. Military or government service;
4. Hurricane or disaster-related conditions preventing attendance;
5. Other reasons approved by a majority vote of the Council.

Excusal shall be determined publicly at the next regular Council meeting.

**(E) Result of Forfeiture**

A seat declared forfeited is immediately vacant and shall be filled according to Section 4.06 of this Charter.

**4.08 – Filling of Vacancies**

**Fort Myers Beach** - Council appoints it until next election.

**Sanibel** - Council appoints it until next election.

**Marco Island** - Appointment unless timing forces election.

**Estero** - Appointment if short term; election if long term.

**A) Vacancy in the Office of Mayor**

If the office of Mayor becomes vacant due to resignation, forfeiture, removal, incapacity, death, or succession to another office, the following procedures shall apply:

1. The Vice Mayor shall immediately assume the duties of Acting Mayor.
2. At the next regular Council meeting, or at a special meeting called for that purpose, the Council shall elect from among its members a new Mayor to serve for the remainder of the unexpired mayoral term.
3. The election shall be conducted publicly and must be approved by a majority vote of the full Council.
4. The Council seat of the member elected as Mayor does not become vacant; the member retains their Council seat.

**(B) Vacancy in the Office of Vice Mayor**

If the office of Vice Mayor becomes vacant for any reason:

1. The Council shall elect from among its members a new Vice Mayor at the next regular meeting or at a special meeting called for that purpose.
2. The newly elected Vice Mayor shall serve for the remainder of the unexpired term of the Vice Mayor position.
3. The Council seat of the member elected as Vice Mayor does not become vacant.

**(C) Continuity of Government**

If both the Mayor and Vice Mayor offices are simultaneously vacant:

1. The Council member with the longest continuous service shall serve as Acting Mayor until the Council elects new officers.
2. If two or more members have equal service time, the Acting Mayor shall be chosen by a majority vote of the full Council.
3. The Council must elect a new Mayor and Vice Mayor no later than the next regular meeting.

#### **(D) No Special Election Required**

A vacancy in the office of Mayor or Vice Mayor shall not trigger a special election.

Only Council seats are subject to the vacancy and special election process described in Section 4.06.

#### **4.09 – Judges of Qualifications**

**Fort Myers Beach** - Council serves as judge of qualifications and misconduct.

**Sanibel** - Council handles internal matters but relies heavily on state law.

**Marco Island** - Similar — council handles internal issues.

**Estero** - Uses clear procedures and public hearings.

FMB should consider independent ethics review or special magistrate oversight.

#### **4.10 – Independent financial audit**

Consider adding post-disaster audit requirements, Useful given our hurricane history.

#### **4.11 – Meetings**

Add modern transparency requirements to the charter, we do them now:

- Livestream meetings
- Archive recordings
- Minutes posted within 7 days
- Do we need to add language on guidelines to “Public Commenting”?

#### **4.12 – Rules – no changes recommended**

#### **4.13 – Voting; Quorum– no changes recommended**

## **ADDITIONAL SECTION FOR DISCUSSION ATTACHED**

### **Article IV Town of Fort Myers Beach**

#### **Ethical Conduct & Business Independence**

##### **Proposed Addition to Article IV – Town of Fort Myers Beach Charter**

#### **Purpose**

Fort Myers Beach is a small island community where some elected officials also operate local businesses. This is a strength of our town, but it can also create situations where Town decisions overlap with private financial interests. Even when officials act with integrity, the appearance of influence can cause residents to question fairness.

This proposal provides clear expectations to protect public trust, future elected officials, and the Town itself.

#### **What the Proposal Would Do**

##### **Encourage Independence**

Elected officials should avoid business relationships that rely on Town permits, approvals, zoning actions, regulatory oversight, or that could benefit from Council decisions—such as decisions affecting traffic, tourism, events, parking, commercial operations, or development activity.

##### **Increase Transparency**

Officials would file a short annual disclosure listing any local business interests, partnerships, or revenue-sharing arrangements within the Town that may relate to Town decision-making. This prevents confusion or speculation.

##### **Provide Guidance, Not Punishment**

If an official has a business relationship that could raise concerns, they would work with the Town Attorney on steps to protect public trust—such as disclosure, recusal, or adjustments in participation.

This provides guardrails, not penalties.

##### **Protect Public Confidence**

Even indirect ties—such as rental or service businesses connected to resorts, large employers, or property management companies—can create an appearance of influence. This proposal ensures such situations are handled openly and consistently.

##### **Apply Prospectively**

The proposal does not force resignations, require anyone to close a business, or apply retroactively.

It simply sets clearer expectations moving forward.

#### **What the Proposal Would Not Do**

- Does not ban elected officials from owning or operating local businesses
- Does not require anyone to sell or shut down a business
- Does not target or affect any current officeholder
- Does not interfere with normal commerce
- Does not change who may run for office

This is about clarity, transparency, and public fairness—not enforcement or penalties.

### **Why This Helps Fort Myers Beach**

- Strengthens resident trust in local government
- Ensures decisions are made solely in the public’s interest
- Provides clear guidance for future elected officials
- Reduces risk of ethics complaints or misunderstandings
- Modernizes and strengthens the Town Charter
- Aligns Fort Myers Beach with best practices used in Sanibel, Estero, Marco Island, Naples, and other Florida communities

### **Proposed Charter Language (Recommended)**

For insertion under Article IV, “Mayor & Town Council”

“Elected officials shall disclose any contractual, financial, or business relationship with any individual or entity that conducts business within the Town or that is subject to Town regulation, permits, approvals, or operations. When a matter before the Council may directly or indirectly affect such a relationship, the official shall abstain from voting and from participating in discussion. The Town shall adopt procedures to ensure such disclosures and recusals are handled consistently.”

**The Town of Fort Myers Beach**  
Incorporated December 1995



# CHARTER

Adopted           (add adoption date)

|                      |                                                   |
|----------------------|---------------------------------------------------|
| <b>ARTICLE I.</b>    | <b>CORPORATE NAME; PURPOSE OF THE CHARTER</b>     |
| <b>ARTICLE II.</b>   | <b>TERRITORIAL BOUNDARIES</b>                     |
| <b>ARTICLE III.</b>  | <b>GENERAL POWERS OF THE MUNICIPALITY</b>         |
| <b>ARTICLE IV.</b>   | <b>CHARTER OFFICERS</b>                           |
| <b>ARTICLE V.</b>    | <b>NOMINATIONS AND ELECTIONS; TERMS OF OFFICE</b> |
| <b>ARTICLE VI.</b>   | <b>TOWN MANAGER</b>                               |
| <b>ARTICLE VII.</b>  | <b>TOWN CLERK</b>                                 |
| <b>ARTICLE VIII.</b> | <b>TOWN ATTORNEY</b>                              |
| <b>ARTICLE IX.</b>   | <b>ADMINISTRATIVE DEPARTMENTS</b>                 |
| <b>ARTICLE X.</b>    | <b>ORDINANCES AND RESOLUTIONS</b>                 |
| <b>ARTICLE XI.</b>   | <b>FINANCIAL PROCEDURES</b>                       |
| <b>ARTICLE XII.</b>  | <b>INITIATIVE AND REFERENDUM</b>                  |
| <b>ARTICLE XIII.</b> | <b>CHARTER AMENDMENTS</b>                         |
| <b>ARTICLE XIV.</b>  | <b>SEVERABILITY</b>                               |

## **ARTICLE I. CORPORATE NAME; PURPOSE OF THE CHARTER**

### **Sec. 1.01. Town of Fort Myers Beach.**

The municipality hereby established shall be known as the Town of Fort Myers Beach, Florida.

### **Sec. 1.02. Purpose of the charter.**

This charter is ordained and established by the people of the Town of Fort Myers Beach, Florida, to promote the general welfare and common good of the community by providing the framework for a municipal corporation to exercise municipal home rule powers under the Constitution and laws of the State of Florida.

## **ARTICLE II. TERRITORIAL BOUNDARIES**

### **Sec. 2.01 Boundaries of the Town of Fort Myers Beach.**

The territorial boundaries of the Town of Fort Myers Beach upon the date of incorporation shall include the following areas situated in the County of Lee, State of Florida:

A corporate limit lying offshore from Estero Island, which line is described as follows: all that part of Lee County situated within Estero Island and the area within 1,000 feet in the Gulf of Mexico and 1,000 feet in the inland bays, and parallel with the shore line of said Estero Island, excluding all of San Carlos Island, Black Island and, structures exclusively attached thereto.

### **Sec. 2.02. Extension of the corporate limits; annexation.**

The corporate limits of the Town of Fort Myers Beach may be revised as provided by general law.

### **ARTICLE III. GENERAL POWERS OF THE MUNICIPALITY**

#### **Sec. 3.01. (Need title)**

The Town of Fort Myers Beach shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. The powers of the Town of Fort Myers Beach shall be construed liberally in favor of the municipality, limited only by the Constitution, general law, and specific limitations contained herein.

#### **Sec. 3.02. Joint exercise of powers.**

The town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with any one or more states, counties, municipalities, or any agencies thereof, or the United States or any agency thereof.

## ARTICLE IV. CHARTER OFFICERS

### Sec. 4.01. Council members; elections.

(a) There shall be a town council, hereinafter referred to as the council, with all legislative powers of the town vested therein, consisting of five council members, all of whom shall be elected from the town at-large.

(b) Council seats shall be designated as seats #1, #2, #3, #4, and #5. All qualified candidates shall be deemed to be seeking election to all open council seats. Assignment of open seat numbers shall be alphabetically by incoming Council members' last names.

**12/2/25 DISCUSSION ITEM: 4.01(b) Concerns regarding use of seat numbers and at-large elections.**

(c) Each member of the council shall be a resident of the town and a registered voter and shall have resided within the corporate limits of the municipality for a minimum of 1 year prior to qualifying for election.

(d) The council are elected officials who are accountable to the citizens at regularly held elections and who are subject to recall as provided by law. The citizens, through these processes, have the opportunity to elect, reelect, or dismiss their elected officials whose promise of performance or actual performance in office best reflects the policies which the citizens desire to implement in the government of the town.

(e) Policy making is the sole prerogative of the elected council. Administrative staff, whether hired or appointed under terms of this charter, is subordinate to the elected officials, whose power derives from the consent of, and election by, the citizens of the town.

(f) Except as otherwise prescribed herein or provided by law, legislative and police powers of the town shall be vested in the council, including the establishment of boards, commissions, and committees. The council shall provide for the exercise of its powers and for the performance of all duties and obligations imposed on the municipality by law.

### Sec. 4.02. Mayor.

At the first regularly scheduled meeting following the town's regular election, the council, by majority vote, shall elect from its membership a mayor. The mayor shall serve as chairperson during meetings of the council and shall serve as the head of municipal government for the purpose of execution of legal documents as required by ordinance. The mayor shall also serve as the ceremonial head of the town.

(a) In non-election years the election of mayor and vice-mayor shall be at the first regularly scheduled meeting in November.

**12/2/25 POLICY DISCUSSION ITEM:** 4.02 Policy discussion regarding duration of service as Mayor.

In the absence of an election, the Mayor shall serve until the next election.  
The Mayor may choose to leave the position with notice to Council.  
The Council may vote by majority to select an alternative Council Member to serve as Mayor.  
The Council may remove a sitting Mayor with a majority vote at any time.

**\*\* Alt. Member Cherney will bring additional language to the January meeting for further discussion of the role of Mayor.**

#### **Sec.4.03. Vice mayor.**

At the first regularly scheduled meeting following the town's regular election, the council, by a majority vote, shall elect from among its membership a vice mayor who shall serve as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become interim mayor pursuant to section 4.08 of this charter.

- (a) In non-election years the election of mayor and vice mayor shall be at the first regularly scheduled meeting in November.
- (b) Should the vice mayor become interim mayor, then, the council, by a majority vote, shall elect from its membership an interim vice mayor who shall serve as mayor during the absence or disability of the interim mayor.

#### **Sec. 4.04. Prohibitions.**

(a) Neither the council, nor any individual member of the council, shall in any manner dictate the employment or removal of any employee other than the town manager and town attorney. No individual member of the council shall give orders to any officer or employee of the town. Recommendations for the improvements in the town government operations shall come through the town manager, but each member of the council shall be free to discuss or recommend improvements to the town manager, and the council is free to direct the town manager to implement specific recommendations for improvement in town government operations. Violations of this Section of the Charter shall constitute malfeasance within the meaning of Section 100.361, Florida Statutes, as may be amended.

(b) No present or former elected town official shall hold any compensated appointive office or employment with the town until 1 year after the expiration of the official's elected term.

**12/2/25 DISCUSSION ITEM:** 4.04(b) After the cessation of the official's service.

#### **Sec. 4.05. Compensation.**

(a) Effective April 1, 2016, base pay for the Mayor will be \$19,200 annually and Council Members will be \$16,800 annually as compensation for their services. Compensation shall be revised annually based on across-the-board adjustments budgeted for staff and administered at the same time as Town employees.

**12/2/25 DISCUSSION ITEM:** 4.05(a) Section 2-19 of Code of Ords. May require revision. service.

- Delete reference to salary amounts.
- Consider creating a Blue Ribbon Committee to evaluate salary amounts v. COLA.
- Reference to “salary” when Council members are not employees v. “compensation”

**\*\* Member Dunlap to provide language regarding Blue Ribbon Committee at January meeting.**

**RESEARCH:** Council benefits in addition to compensation. (Health Insurance)  
Input from HR? Cost of health care for Council?

(b) The council may provide for reimbursement of actual expenses incurred by its members while performing their official duties.

#### **Sec. 4.06. Vacancies.**

The office of a member of the council shall become vacant upon the member's inability to fulfill the duties of the office, resignation, or removal from office as authorized by law or this charter.

**12/2/25 DISCUSSION ITEM:** 4.06 Vacancies need to be defined.

Add from Alt. Member Cherney’s handout:

(a) Events Creating a Vacancy.

A vacancy in the office of a Council member shall occur upon:

1. Death, resignation, or removal from office;
2. Forfeiture of office under Section 4.07;
3. Loss of residency or failure to maintain qualifications;
4. Failure to assume office within 30 days of election or appointment;
5. Judicial determination of ineligibility or vacancy.

**\*\* Bring to January meeting: further discussion regarding due process for removal of office by Council.**

**\*\* Define “unexcused absence”**

#### **Sec. 4.07. Forfeiture of office.**

A member of the council may forfeit the office, if the member:

- (a) Lacks at any time during the term of office any qualification for the office prescribed by this charter or by law;
- (b) Violates any express prohibition of this charter;
- (c) Is convicted of a felony or criminal misdemeanor which misdemeanor involves the office of town council; or
- (d) Misses three consecutive regularly scheduled council meetings without an excused absence.
- (e) Does not maintain a permanent residence in the Town of Fort Myers Beach.

If any of these events should occur, a hearing shall automatically be conducted at the next regularly scheduled council meeting, and the member may be declared to have forfeited office by majority vote of the council.

#### **Sec. 4.08. Filling of vacancies.**

A vacancy on the council, except for the position of mayor, shall be filled by appointment by majority vote of the council members remaining, and said appointment shall be effective until a successor is chosen at the next regular election. In the event that a majority of the members are removed by death, disability, law, or forfeiture of office, the governor shall appoint an interim council that shall call a special election to be held within 45 days following the occurrence of the vacancies to elect a new council. In the event that the mayor becomes unable to fulfill the duties of office, ceases to be qualified, or is removed from office as provided by law or this charter, the vice mayor shall assume the full powers and duties of the mayor. The vice mayor shall assume the office of mayor for the remainder of the unexpired term. The council vacancy thus created shall be filled by an interim appointment under the provisions of this charter, to be effective only until such time as the mayor resumes office or until the expiration of the term of the office, whichever occurs first.

#### **Sec. 4.09. Judge of qualifications.**

The council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A council

member charged with conduct constituting grounds for forfeiture of this office shall be notified by the town clerk by certified mail and shall be entitled to a public hearing at the next regularly scheduled meeting of the council as outlined in section 4.07 of this charter. Notice of such hearing shall be published in one or more newspapers of general circulation in the town at least 1 week in advance of the hearing.

#### **Sec. 4.10. Independent financial audit.**

The council shall provide for an independent annual financial audit of all town accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or a firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the town government or in any of its officers. Residency in the town shall not be construed as a prohibited interest.

#### **Sec. 4.11. Meetings.**

The council shall meet regularly at least eight times per year and shall meet no less often than bimonthly at such times and locations within the boundaries of the town as the council may prescribe. Special meetings may be held on the call of the mayor or the town manager and with reasonable 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. A special meeting may be held outside the town with reasonable notice. All meetings, as provided by law, shall be public and shall be scheduled to commence no earlier than 7 a.m. nor later than 10 p.m.

ADDED at 12.2.25 meeting "as provided by law"

#### **Sec. 4.12. Rules.**

The council shall determine its own rules and order of business and shall provide for keeping minutes of its proceedings. The minutes shall be public records. The Town Council shall maintain a Policies and Procedures Manual that provides guidelines for how it will operate.

#### **Sec. 4.13. Voting; quorum.**

Roll call voting shall be required for ordinances or upon the specific request of a council member and shall be recorded in the minutes; otherwise, voting shall be by ayes and nays. Three members of the council shall constitute a quorum. No action of the council shall be valid or binding unless adopted by the affirmative vote of at least three members of the council, except in an emergency situation. All council members in attendance shall vote on all council actions, except when, with respect to any such member, there is, or appears to be, a possible conflict of interest as defined under general law.

## **ARTICLE V. NOMINATIONS AND ELECTIONS; TERMS OF OFFICE**

### **Sec. 5.01. Elections.**

The regular election of the members of the Town Council shall be held on the first Tuesday after the first Monday in November, or as otherwise provided by general law. The time period that candidates must qualify shall be from noon of the 50<sup>th</sup> day prior to the election to noon of the 46<sup>th</sup> day, or as adjusted by a holiday or leap year.

### **Sec. 5.02. Commencement of Term.**

The term of a member of the council shall begin at the first council meeting following the general election.

### **Sec. 5.03. Terms of office.**

The terms for all council seats, #1, #2, #3, #4, and #5, shall be for four (4) years, seats #1 and #2 shall initially be for a term from March 2019 to November 2023, and seats #3, #4, & #5 shall be for a term from March 2020 to November 2024. No member of the council shall serve for more than two consecutive full terms. After 1 year out of office, a candidate may re-qualify for any vacant seat.

### **Sec. 5.06. Nonpartisan elections.**

All elections for officers of the town shall be conducted on a nonpartisan basis without any designation of political party affiliation.

### **Sec. 5.07. Multiple candidates.**

In the event that more candidates qualify for election than there are open council seats, those candidates shall participate in the regular election and the candidate or candidates receiving the most votes cast shall be elected to the open council seat or seats.

### **Sec. 5.08. Recall.**

The qualified electors of the municipality shall have the power to recall and to remove any elected official of the town as prescribed by general law.

### **Sec. 5.09. Town canvassing board.**

The town canvassing board shall be composed of a Town Council Member, selected by Town Council, who is not a candidate for reelection, the Town Manager and the Town Clerk, who shall act as chairperson. At the close of polls of any town election, or as soon thereafter as practicable, the canvassing board shall meet at a time and place designated by the chairperson and shall proceed to publicly canvass the vote as shown by the returns then on file in the Office of the Supervisor of Elections. The Board shall prepare and sign a

certificate containing the total number of votes cast for each person or other measure voted on. The certificate shall be placed on file with the Town Clerk.

## **ARTICLE VI. TOWN MANAGER**

### **Sec. 6.01. Appointment and qualifications.**

The council shall appoint a town manager. The town manager shall be appointed primarily on the basis of executive and administrative qualifications.

### **Sec. 6.02. Removal.**

The council may remove the town manager for any reason by affirmative vote of at least 3 members of the council. If the vote is less than unanimous by all council members, the town manager may, within 7 days of the dismissal motion by council, submit to the mayor a written request for reconsideration. Any action taken by the council at the reconsideration hearing shall be final.

### **Sec. 6.03. Powers and duties.**

The town manager shall be the chief administrative officer of the town and shall implement and administer all ordinances, resolutions, and policies adopted by the council and shall perform such other duties as may be required by the council or law. The town manager shall be responsible to the council and shall have the following powers and duties:

- (a) To hire or fill existing positions and, when the town manager deems it necessary for the good of the town service, suspend or remove town employees, except as otherwise provided by law or this charter.
- (b) To direct and supervise the administration of all employees, departments, and agencies of the town, except as otherwise provided by this charter or by law.
- (c) To attend all council meetings and shall have the right to take part in discussion but may not vote.
- (d) To ensure that all laws, provisions of this charter, and acts of the council, subject to enforcement by the town manager or by officers subject to the town manager's direction and supervision, are faithfully executed.
- (e) To submit to the council and make available to the public a complete report on the administrative activities of the town as of the end of each fiscal year.

- (f) To make such other reports as the council may require concerning the operation of town departments, offices, and agencies subject to the town manager's direction and supervision.
- (g) To keep the council fully advised as to the condition and future needs of the town and to make written recommendations to the council concerning the affairs of the town.
- (h) To perform the duties of town clerk in addition to the duties of town manager during any period of time so appointed by the council.
- (i) To perform such other duties as are specified in this charter or as may from time to time be assigned by the council.

## **ARTICLE VII. TOWN CLERK**

### **Sec. 7.01. [Appointed by town manager; duties and powers.]**

There may be a town clerk who shall be appointed by the town manager with the consent of the council. The town clerk shall serve at the pleasure of the town manager and shall:

- (a) Give notice of council meetings to its members and the public.
- (b) Keep the journal and minutes of the proceedings of the council 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 council.
- (d) Be the custodian of the town seal.
- (e) Have the power to administer oaths.
- (f) Perform such other duties as may be assigned by the town manager.

## **ARTICLE VIII. TOWN ATTORNEY**

### **Sec. 8.01. [Appointed by town council; duties; removal procedure.]**

There shall be a town attorney appointed by the council, who may represent the town in all legal proceedings and shall perform all other duties assigned by the council. The council may remove the town attorney for any reason by motion requiring three affirmative votes.

## **ARTICLE IX. ADMINISTRATIVE DEPARTMENTS**

### **Sec. 9.01. Establishment of additional departments.**

The council may establish such other departments as it determines necessary for the efficient administration and operation of the town; such departments, offices, or agencies shall be established by ordinance.

## **ARTICLE X. ORDINANCES AND RESOLUTIONS**

### **Sec. 10.01. Definition of ordinances and resolutions.**

As used in this charter, the following words and terms shall have the following meanings unless some other meaning is plainly indicated:

- (a) *Ordinance* means an official legislative action of the council, which action is a regulation of a general and permanent nature and enforceable as a local law.
- (b) *Resolution* means an expression of the council concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the town.

### **Sec. 10.02. Adoption of ordinances.**

Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject and matters properly connected therewith, which shall be clearly expressed in its title. The enacting clause for an ordinance shall be: "IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS..."

- (a) An ordinance may be introduced by any member at any regular or special meeting of the council. A proposed ordinance may be read by title, or in full, on at least two separate council meeting days and shall, at least 10 days prior to adoption, be noticed once in a newspaper of general circulation in the town. The notice of proposed enactment shall state the date, time, and place of the meeting; the title of a proposed ordinance; and the place or places within the town where such proposed ordinance may be inspected by the public.
- (b) The council, as provided by general law, may adopt an emergency ordinance without complying with the requirements of notice expressed in the foregoing paragraph. An emergency ordinance shall become effective upon adoption and automatically stand repealed as of the 61st day following

the date on which it was adopted. This shall not prevent reenactment of such an ordinance under regular procedures.

- (c) Ordinances which rezone specific parcels of private real property or which substantially change permitted use categories shall be enacted pursuant to general law.
- (d) An ordinance shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the mayor and the town clerk. A copy of the ordinance shall be available in the town hall.

### **Sec. 10.03. Adoption of resolutions.**

Every proposed resolution shall be introduced in writing and in the form required for final adoption. No resolution shall contain more than one subject which shall be clearly expressed in its title. The clause which shall be used for all resolutions approved by the council shall be: "IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS..." A resolution may be introduced by any member at any regular or special meeting of the council. A resolution shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the mayor and the town clerk. A copy of the resolution shall be available in the town hall.

## **ARTICLE XI. FINANCIAL PROCEDURES**

### **Sec. 11.01. Fiscal year.**

The fiscal year of the town shall begin on the first day of October and end on the last day of September.

### **Sec. 11.02. Submission of budget and budget message.**

On or before the 15th day of July of each year, the town manager shall submit to the council a budget in accordance with state law. It shall outline the financial policies of the town 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 town's debt position; and include such other material as the town manager deems necessary.

### **Sec. 11.03. Council action on the budget.**

The council shall adopt the budget by resolution on or before the 30th day of September of each year.

### **Sec. 11.04. Public records.**

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable locations in the town.

#### **Sec. 11.05. Budget amendments.**

(a) *Supplemental appropriations.* If, during the fiscal year, the town manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the council, 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 council, by resolution, may make emergency appropriations. To the extent that there are no unappropriated revenues to meet such appropriations, the council 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 town manager that the revenues available will be insufficient to meet the amount appropriated, the town manager shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any other steps to be taken. The council 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 town manager may transfer any unencumbered appropriations among programs within a department, office, agency or a program provided by inter local agreement and, upon written request by the town manager, the council may by resolution transfer between funds any unencumbered appropriations from one department, office, agency or a program provided by inter local agreement to another.

## **ARTICLE XII. INITIATIVE AND REFERENDUM**

### **Sec. 12.01. Initiative and referendum.**

At least 25 percent of the qualified electorate of the town shall have the power to petition the council to propose an ordinance or to require reconsideration of an adopted ordinance, and if the council fails to adopt such ordinance so proposed, or to repeal such adopted ordinance, without any change in substance, then the council shall place the proposed ordinance, or the repeal of the adopted ordinance, on the ballot at the next municipal election.

## **ARTICLE XIII. CHARTER AMENDMENTS**

### **Sec. 13.01. Initiation by ordinance.**

The council may, by ordinance, propose amendments to any or all of this charter to be submitted to the electors, as provided by general law.

### **Sec. 13.02. Initiation by petition.**

The electors of the town may propose amendments to this charter by petition to be submitted to the council to be placed before the electors, as provided by general law.

### **Sec. 13.03. Charter review.**

The charter will be reviewed at least every 10 years. A five-member charter review commission shall be appointed and funded by the council. The charter review commission shall be appointed at least 6 months before the next scheduled election and complete its work and present any recommendations to the Council for change no later than 60 days before the election. The council shall hold a minimum of two public hearings to approve, reject or modify the proposed changes to the charter prior to placing the proposed changes on the scheduled election ballot.

## **ARTICLE XIV. SEVERABILITY**

### **Sec. 14.01. Invalidity of character provision or application.**

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of this charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

End of document.

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 97- 30

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, PLACING PROPOSED CHANGES TO THE CHARTER FOR REFERENDUM AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Fort Myers Beach, incorporated under Chapter 95-494, Laws of Florida, which by Section 13.03, provides for the appointment of a five- member charter review commission; and,

WHEREAS, the Town Council appointed such a commission and the commission held public hearings and presented proposed changes to the Council; and

WHEREAS, the Town Council held a minimum of two public hearings on proposed changes.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA:

Section 1. Placing proposed changes on scheduled election ballot. The Town Council hereby places the following proposed changes to the Town Charter on the scheduled election ballot:

1. CHANGE FROM AT-LARGE TO SINGLE MEMBER DISTRICTS

A Town Charter amendment changing the election of the members of council from at large to only by electors residing in single-member districts.

Shall the above described amendment be adopted?

\_\_\_\_ Yes  
\_\_\_\_ No

ARTICLE IV: CHARTER OFFICERS

Section 4.01 Council members; elections.--

(a) There shall be a town council, hereinafter referred to as the council, with all legislative powers of the town vested therein, consisting of five council members, all each of whom shall be elected from single member districts. ~~the town at large, for the initial election. The council shall place the matter of a change in the charter regarding at large or district elections for council members to a vote of the electorate no later than 2 years after formation of the municipality with public hearings as to said matter as required under section 13.03 hereof.~~

~~(b) Council seats shall be designated as seats #1, #2, #3, #4, and #5. Candidates shall be required to seek election to a specific seat on the council.~~

2. CHANGE TO REMOVE THE RESTRICTION ON REVENUE BONDS FOR PURCHASE OF REAL PROPERTY OR FOR CAPITAL IMPROVEMENTS

A Town Charter amendment changing the requirement of a referendum to two public hearings prior to issuance of revenue bonds or prior to entering a lease purchase contract.

Shall the above described amendment be adopted?

\_\_\_\_ Yes  
\_\_\_\_ No

ARTICLE XI: FINANCIAL PROCEDURES

Section 11.03 Council action on the budget.--

b) Unless authorized by the electors of the town at a duly held referendum election, the council shall not authorize or allow to be authorized the issuance of ~~revenue bonds or enter into lease purchase contracts or any other~~ unfunded multi-year contracts ~~all for the purchase of real property or the construction of any capital improvement~~, the repayment of which extends in excess of 36 months, unless mandated by state or federal governing agencies. This restriction shall not apply to revenue bonds or to lease-purchase contracts for the purchase of real property or the construction of any capital improvement. At least two public hearings shall be held prior to the above referendum and prior to the authorization or revenue bonds or lease-purchase contracts in excess of 36 months.

Section 2. Effective Date. This resolution shall take effect immediately upon its adoption by the Fort Myers Beach Town Council.

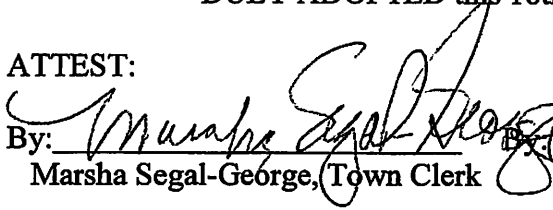
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

|                       |            |
|-----------------------|------------|
| Anita T. Cereceda     | <u>aye</u> |
| Ted FitzSimons        | <u>aye</u> |
| William (Rusty) Isler | <u>aye</u> |
| Garr Reynolds         | <u>no</u>  |
| Ray Murphy            | <u>aye</u> |

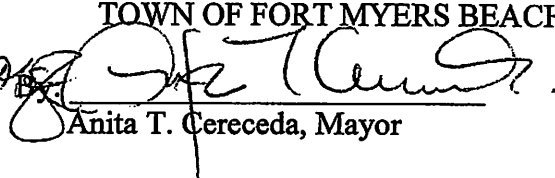
DULY ADOPTED this 18th day of August, 1997.

ATTEST:

TOWN OF FORT MYERS BEACH

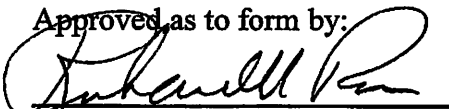
By: 

Marsha Segal-George, Town Clerk

By: 

Anita T. Cereceda, Mayor

Approved as to form by:

  
Richard V.S. Roosa, Town Attorney

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 97- 32

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA,  
PLACING PROPOSED CHANGES TO THE CHARTER FOR REFERENDUM  
AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Fort Myers Beach, incorporated under Chapter 95-494,  
Laws of Florida, which by Section 13.03, provides for the appointment of a five- member  
charter review commission; and,

WHEREAS, the Town Council appointed such a commission and the commission  
held public hearings and presented proposed changes to the Council; and

WHEREAS, the Town Council held a minimum of two public hearings on  
proposed changes; and ,

WHEREAS, the Town Council adopted an ordinance Proposing An Amendment  
To The Charter Subject To Referendum, Imposing A 3% Utility Tax For The Purchase  
Of Real Property.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN  
OF FORT MYERS BEACH, FLORIDA:

Section 1. Placing proposed changes on scheduled election ballot. The Town Council  
hereby places the following proposed changes to the Town Charter on the scheduled  
election ballot:

TOWN CHARTER AMENDMENTS

1. A Town Charter Amendment changing the election of the members of the council  
from at large to only by electors residing in single member districts.

Shall the above described amendment be adopted?

Yes \_\_\_\_  
No \_\_\_\_

Currently the council members are elected by all of the voters. If the change is approved  
the Town would be divided into five districts and each district would elect one council  
member.

2. A Town Charter Amendment authorizing the council to impose a tax of three percent  
upon the purchase of electricity and restricting the use of the revenue to acquisition of  
real estate within the town.

Shall the above described amendment be adopted?

Yes ☐

No ☐

While the Town Council could, without voter approval, impose the tax, this amendment would restrict the use of the tax only to the purchase of real estate located within the Town.

3. A Town Charter Amendment changing the requirement of a referendum, prior to issuance of revenue bonds or prior to entering a lease purchase contract, to two public hearings.

Shall the above described amendment be adopted?

Yes ☐

No ☐

Currently the voters must approve any borrowing or lease with option extending more than three years. This amendment would permit the council, without voters approval, to pledge revenues other than property taxes. Council action could only be taken after holding two public hearings.

Section 2. Effective Date. This resolution shall take effect immediately upon its adoption by the Fort Myers Beach Town Council.

The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

|                       |               |
|-----------------------|---------------|
| Anita T. Cereceda     | <u>aye</u>    |
| Ted FitzSimons        | <u>absent</u> |
| William (Rusty) Isler | <u>aye</u>    |
| Garr Reynolds         | <u>aye</u>    |
| Ray Murphy            | <u>aye</u>    |

DULY ADOPTED this 22nd day of September, 1997.

ATTEST:

TOWN OF FORT MYERS BEACH

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

By: Anita T. Cereceda  
Anita T. Cereceda, Mayor

Approved as to form by:

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

ORDINANCE No. 01-06

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH  
AMENDING THE CHARTER, PROVIDING AUTHORITY;  
AMENDMENT- ELECTIONS; AMENDMENT-TERMS OF OFFICE;  
SEVERABILITY; REPEALING CLAUSE 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 100.3605 and 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. AMENDMENT – ELECTIONS. The "Town of Fort Myers Beach Charter" adopted as Chapter 95-494, Laws of Florida is amended as follows:

Section 5.01 Elections.--The regular election of the members of the council shall be held on the ~~first~~ second Tuesday ~~after the first Monday in November~~ March. A primary election will be held on the Tuesday five weeks prior to the general election if more than two candidates qualify for the same office.

SECTION 3. AMENDMENT-TERMS OF OFFICE. The "Town of Fort Myers Beach Charter" adopted as Chapter 95-494, Laws of Florida is amended as follows:

Section 5.03 Terms of office.--The terms for all council seats, #1, #2, #3, #4, and #5, shall be for ~~3~~ 4 years, except during the transition period, ~~as outlined in section 15.02(e) of this charter.~~ seats #1 and #2 shall initially be for a term from November, 2000 to March, 2004 and seats #3, #4, & #5 shall be for a term from: November, 2001 to March, 2006 No member of the council shall serve for more than two consecutive ~~3-year~~ full terms. After 1 year out of office, a candidate may re-qualify for any vacant seat.

SECTION 4. 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 beheld 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 5. REPEALING CLAUSE. All ordinances or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION 6. 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 Rynearson and, upon being put to a vote, the result was as follows:

|                  |               |
|------------------|---------------|
| Daniel Hughes    | <u>aye</u>    |
| Garr Reynolds    | <u>aye</u>    |
| Ray Murphy       | <u>absent</u> |
| Terry Cain       | <u>aye</u>    |
| Howard Rynearson | <u>aye</u>    |

DULY PASSED AND ENACTED this 10 day of September, 2001.

ATTEST:

TOWN OF FORT MYERS BEACH

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

By: Daniel Hughes  
Daniel Hughes, Mayor

Approved as to form by:

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

ORDINANCE No. 05- 02

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH  
PROPOSING AN AMENDMENT TO THE CHARTER SUBJECT TO  
REFERENDUM, PROVIDING AUTHORITY; PROPOSED  
AMENDMENT- TOLLS REFERENDUM; SEVERABILITY;  
REPEALING CLAUSE AND REFERENDUM; 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. PROPOSED AMENDMENT – TOLLS REFERENDUM. The "Town of Fort Myers Beach Charter" adopted as Chapter 95-494, Laws of Florida is amended by adding:

Section 12.02 Tolls Referendum.—The council may impose road or bridge tolls only after approval by the electors, as provided by general law.

SECTION 3. 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 4. REPEALING CLAUSE. All ordinances or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION 5. REFERENDUM; EFFECTIVE DATE. The Town Council shall submit the provisions of this ordinance to the vote of the electorate. Upon approval by a majority vote of the electorate voting in the referendum and certification of same by the canvassing board, such provisions shall be deemed adopted. The provision so adopted

shall be incorporated in the Town Charter and the charter so revised shall be filed with the Florida State Department.

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 28<sup>th</sup> day of February, 2005.

ATTEST:

TOWN OF FORT MYERS BEACH

|                                 |                        |
|---------------------------------|------------------------|
| By: <u>Marsha Segal-George</u>  | By: <u>Bill Thomas</u> |
| Marsha Segal-George, Town Clerk | Bill Thomas, Mayor     |

Approved as to form by:

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

ORDINANCE No. 05-03

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING THE CHARTER, PROVIDING AUTHORITY; AMENDMENT- ELECTIONS; AMENDMENT – MULTIPLE CANDIDATES; AMENDMENT – INITIATIVE AND REFERENDUM; SEVERABILITY; REPEALING CLAUSE 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 99.061, 100.3605 and 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. AMENDMENT – ELECTIONS. The "Town of Fort Myers Beach Charter" adopted as Chapter 95-494, Laws of Florida is amended as follows:

Section 5.01 Elections.-- The regular election of the members of the council shall be held on the second Tuesday in March. If necessary A primary a runoff election will be held on the second Tuesday in April. Tuesday five weeks prior to the general election if more than two candidates qualify for the same office. The time period that candidates must qualify shall be from noon of the 50<sup>th</sup> day prior to the second Tuesday in March to noon of the 46<sup>th</sup> day, or as adjusted by a holiday or in a leap year.

SECTION 3. AMENDMENT – MULTIPLE CANDIDATES. The "Town of Fort Myers Beach Charter" adopted as Chapter 95-494, Laws of Florida is amended as follows:

Section 5.07 Multiple candidates.-- In the event that more than two candidates qualify for election to a single office those candidates shall participate in the ~~primary~~ regular election and the candidate receiving a majority of votes cast shall be elected. If no candidate receives a majority, then the two candidates receiving the most votes shall participate in the general a runoff election established in Section 5.01. to decide the winner for that office.

SECTION 4. AMENDMENT – INITIATIVE AND REFERENDUM. The "Town of Fort Myers Beach Charter" adopted as Chapter 95-494, Laws of Florida is amended as follows:

Section 12.01 Initiative and referendum.-- At least 25 percent of the qualified electorate of the town shall have the power to petition the council to propose an ordinance or to require reconsideration of an adopted ordinance, and if the council fails to adopt such ordinance so

proposed, or to repeal such adopted ordinance, without any change in substance, then the council shall place the proposed ordinance, or the repeal of the adopted ordinance, on the ballot at the next general municipal election.

SECTION 5. 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 6. REPEALING CLAUSE. All ordinances or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION 7. REFERENDUM; EFFECTIVE DATE. The Town Council shall submit the provisions of this ordinance to the vote of the electorate. Upon approval by a majority vote of the electorate voting in the referendum and certification of same by the canvassing board, such provision shall be deemed adopted. The provision so adopted shall be incorporated in the Town Charter and the charter so revised shall be filed with the Florida State Department.

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 28<sup>th</sup> day of February, 2005.

ATTEST:

TOWN OF FORT MYERS BEACH

By:

Marsha Segal-George  
Marsha Segal-George, Town Clerk

By:

Bill Thomas  
Bill Thomas, Mayor

Approved as to form by:

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

ORDINANCE No. 05-04

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING THE ORDINANCE CLARIFYING PROVISIONS OF THE CHARTER OF THE TOWN OF FORT MYERS BEACH, PROVIDING AUTHORITY; FOR CLARIFICATION AND AS A MATTER OF POLICY SECTION 4.02 MAYOR AND SECTION 4.03 VICE MAYOR; 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. For clarification and as a matter of policy Section 4.02 Mayor and Section 4.03 Vice mayor shall be interpreted to include:

*Section 4.02 Mayor.--At the first regularly scheduled meeting following the town's regular election, the council, by majority vote, shall elect from its membership a mayor. The mayor shall serve as chairperson during meetings of the council and shall serve as the head of municipal government for the purpose of execution of legal documents as required by ordinance. The mayor shall also serve as the ceremonial head of the town.*

*Section 4.03 Vice mayor.--At the first regularly scheduled meeting following the town's regular election, the council, by a majority vote, shall elect from among its membership a vice mayor who shall serve as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become interim mayor pursuant to section 4.08 of this charter.*

- A. In non-election years the election of mayor and vice-mayor shall be at the first regularly scheduled meeting in ~~November~~ March.
- B. Should the vice mayor become interim mayor, then, the council, by a majority vote, shall elect from among its membership an interim vice mayor who shall serve as mayor during the absence or disability of the interim mayor.

SECTION 3. 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 4. Effect of Ordinance. The provisions of this Ordinance shall be deemed cumulative and supplemental and shall have no legal effect except as expressly provided.

SECTION 5. 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:

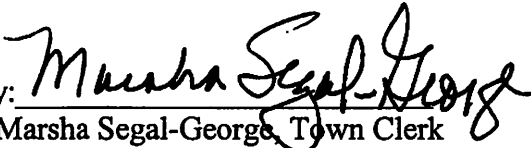
|                        |            |
|------------------------|------------|
| Howard Rynearson       | <u>Aye</u> |
| Don Massucco           | <u>Nay</u> |
| Bill Thomas            | <u>Aye</u> |
| W. H. "Bill" Van Duzer | <u>Aye</u> |
| Garr Reynolds          | <u>Nay</u> |

DULY PASSED AND ENACTED this 28<sup>th</sup> day of February, 2005.

ATTEST:

TOWN OF FORT MYERS BEACH

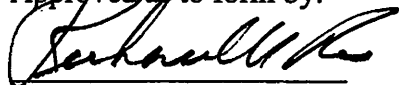
By:

  
Marsha Segal-George, Town Clerk

By:

  
Bill Thomas, Mayor

Approved as to form by:

  
Richard V.S. Roosa, Town Attorney

ORDINANCE No. 05-05

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH  
AMENDING THE CHARTER, PROVIDING AUTHORITY;  
AMENDMENT- ELECTIONS; AMENDMENT-TERMS OF OFFICE;  
SEVERABILITY; REPEALING CLAUSE 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 100.3605 and 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. AMENDMENT – ELECTIONS. The "Town of Fort Myers Beach Charter" adopted as Chapter 95-494, Laws of Florida is amended as follows:

Section 5.01 Elections.--The regular election of the members of the council shall be held on the second Tuesday in ~~March~~ November, 2005. A primary election will be held on the Tuesday five weeks prior to the general election if more than two candidates qualify for the same office.

SECTION 3. AMENDMENT-TERMS OF OFFICE. The "Town of Fort Myers Beach Charter" adopted as Chapter 95-494, Laws of Florida is amended as follows:

Section 5.03 Terms of office.--The terms for all council seats, #1, #2, #3, #4, and #5, shall be for 3 years, except during the transition period, seats #3, #4, & #5 shall be for a term from: November, 2001 to November, 2005 No member of the council shall serve for more than two consecutive full terms. After 1 year out of office, a candidate may re-qualify for any vacant seat.

SECTION 4. 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 5. REPEALING CLAUSE. All ordinances or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION 6. 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 Van Duzer and seconded by Council Member Ryneerson and, upon being put to a vote, the result was as follows:

|                        |            |
|------------------------|------------|
| Howard Ryneerson       | <u>Aye</u> |
| Don Massucco           | <u>Nay</u> |
| Bill Thomas            | <u>Aye</u> |
| W. H. "Bill" Van Duzer | <u>Aye</u> |
| Garr Reynolds          | <u>Nay</u> |

DULY PASSED AND ENACTED this 28<sup>th</sup> day of February, 2005.

ATTEST:

TOWN OF FORT MYERS BEACH

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

By: Bill Thomas  
Bill Thomas, Mayor

Approved as to form by:

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

## **RESOLUTION 05-25**

### **A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, PRESENTING REFERENDUM QUESTIONS FOR PROPOSED AMENDMENTS TO THE CHARTER OF THE TOWN OF FORT MYERS BEACH.**

**WHEREAS, the Town Council of the Town of Fort Myers Beach, Florida, has duly passed ORDINANCES No. 05-02 and 05-03 on February 28, 2005; and**

**WHEREAS, the aforesaid Ordinances shall be submitted to the electors of the Town of Fort Myers Beach, Lee County, Florida for consideration, in accordance with applicable law and provisions of the Charter of the Town of Fort Myers Beach, Florida and as set forth in specificity below; and**

**WHEREAS, this Resolution is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.**

**NOW, THEREFORE IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

**SECTION ONE. PURPOSE. A referendum election is hereby ordered and called for the purpose of submitting to the qualified electors of the Town of Fort Myers Beach, Lee County, Florida, the question of approval of amendments to the Town Charter.**

**SECTION TWO. APPROVAL BY MAJORITY. Each amendment shall take effect if approved by a majority of the qualified electors of the Town voting on each such referendum question in the election to be held on November 8, 2005.**

**SECTION THREE. REQUIREMENTS OF LAW. Said referendum election shall be conducted according to the requirements of the Florida Election Laws. The Supervisor of Elections of Lee County, Florida is hereby directed to present the ballot questions set forth below to the voters of Fort Myers Beach, Florida and to hold the referendum election thereon on the general election day of November 8, 2005.**

**SECTION FOUR. POLLING PLACES AND CONDUCT OF ELECTION. The referendum election shall be held at the polling places duly designated by the Supervisor of Elections of Lee County, Florida and conducted by election officials duly appointed by applicable General Law. The hours of election, absentee voting, canvassing, delivery of ballots and publication of notice of the referendum question shall be as provided by the requirements of law.**

**SECTION FIVE. AUTHORIZATION OF TOWN COUNCIL OR DESIGNEES. The Town Council or its designees are hereby authorized to take all those actions necessary in order that these referendum questions are properly placed on the ballot for the general election of November 8, 2005.**

**SECTION SIX. BALLOTS.** The ballots to be used in said referendum shall be in the form as provided by law and shall contain the questions to be voted upon. Said questions shall be in substantially the following form:

**OFFICIAL BALLOT**

1. Should Section 2 of the Town Charter relating to council member elections be amended to eliminate the primary election prior to the general elections; adding a provision for a run-off election after the general election if no candidate receives a majority of votes for that office; and adding a provision specifying the time period for candidate qualification prior to election?

Shall the above described amendment be adopted?

Yes for Approval \_\_\_\_  
No for Rejection \_\_\_\_

2. Should the Town Charter be amended to state that the council may impose road or bridge tolls only after approval by the electors as provided by general law?

Shall the above described amendment be adopted?

Yes for Approval \_\_\_\_  
No for Rejection \_\_\_\_

**SECTION SEVEN. NOTICE OF ELECTION.** The publication of notice of this referendum shall be had in a newspaper of general circulation within Lee County and the first publication shall be at least 30 days prior to the 8<sup>th</sup> day of November, 2005. The publication shall be made at least twice; once in the fifth week and once in the third week prior to the week in which the referendum is to be held.

**SECTION EIGHT. EFFECTIVE DATE.** This Resolution shall become effective immediately upon its adoption.

The foregoing, resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

|                        |            |
|------------------------|------------|
| Don Massucco           | <u>Aye</u> |
| Garr Reynolds          | <u>Aye</u> |
| Howard Rynearson       | <u>Aye</u> |
| Ken Katcko             | <u>Aye</u> |
| W. H. "Bill" Van Duzer | <u>Aye</u> |

**DULY PASSED AND ADOPTED** this 12th day of September 2005.

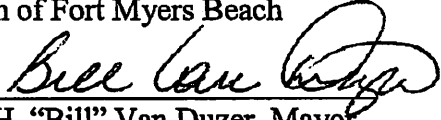
ATTEST By:

  
Marsha Segal-George, Town Clerk

Approved as to form by:

  
Anne Dalton, Town Attorney

Town of Fort Myers Beach

  
W. H. "Bill" Van Duzer, Mayor

ORDINANCE No. 06-17

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH  
AMENDING THE CHARTER, PROVIDING AUTHORITY; AMENDMENT-  
RUN-OFF ELECTION PROVISION FOR 2007 ELECTIONS ONLY;  
SEVERABILITY; REPEALING CLAUSE AND EFFECTIVE DATE.**

WHEREAS, 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, Florida Statute 100.3605 (2) authorizes the Town to change, by ordinance, the dates for qualifying and for the election of members of the Town Council and provide for the orderly transition of office resulting from such date changes; and

WHEREAS, Article V of the Town Charter provides for the regular election of the members of council on the second Tuesday in March with a run-off election if necessary on the second Tuesday in April, if no candidate receives a majority of votes for that office; and

WHEREAS, the Lee County Supervisor of Elections has advised the Town that, for 2007, she is able to conduct a Town election on the second Tuesday in March in compliance with the Town Charter; and

WHEREAS, the Lee County Supervisor of Elections has advised the Town that, for 2007, she cannot conduct a Town run-off election (if necessary) on the second Tuesday in April but rather can conduct it on the first Tuesday in May; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town.

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

**SECTION 1. INCORPORATION.** The above "whereas" clauses are hereby incorporated into the body of this Resolution by reference.

**SECTION 2. AMENDMENT – ELECTIONS.** The "Town of Fort Myers Beach Charter" adopted as Chapter 95-494, Laws of Florida is amended as follows for the March, 2007 election only:

"Section 5.01. Elections. The regular election of the members of the council shall be held on the second Tuesday in March. If necessary, a runoff election will be held on the first Tuesday in May. The time period that candidates must qualify shall be from noon of the 50<sup>th</sup> day prior to the second Tuesday in March to noon of the 46<sup>th</sup> day, or as adjusted by a holiday or leap year. "

**SECTION 3. 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 4. REPEALING CLAUSE.** All ordinances or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**SECTION 5. EFFECTIVE DATE.** This ordinance shall become effective immediately upon its adoption.

**SECTION 6. SUNSET DATE.** This ordinance shall automatically stand repealed as of June 1, 2007, unless extended by act of Town Council prior thereto. Upon such repeal, the language of the Charter prior to this Ordinance shall be restored, i.e.,:

"Section 5.01. Elections. The regular election of the members of the council shall be held on the second Tuesday in March. If necessary, a runoff election will be held on the second Tuesday in April. The time period that candidates must qualify shall be from noon of the 50<sup>th</sup> day prior to the second Tuesday in March to noon of the 46<sup>th</sup> day, or as adjusted by a holiday or leap year. "

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

|                          |     |
|--------------------------|-----|
| Dennis C. Boback, Mayor  | aye |
| Don Massucco, Vice Mayor | aye |
| Garr Reynolds            | aye |
| Charles Meador, Jr.      | aye |
| William Shenko, Jr.      | aye |

DULY PASSED AND ENACTED this 16<sup>th</sup> day of October, 2006.

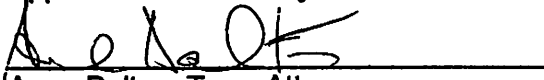
ATTEST:

By:   
Michelle Mayher, Town Clerk

TOWN OF FORT MYERS BEACH

By:   
Dennis C. Boback, Mayor

Approved as to form by:

  
Anne Dalton, Town Attorney

ORDINANCE No. 07-05

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING THE CHARTER, PROVIDING AUTHORITY; AMENDMENT PROVISION FOR ELECTION OF COUNCIL MEMBERS IN APRIL, 2008 IF TOWN REFERENDUM ON CHANGES TO ARTICLE IV OR ARTICLE V, OR BOTH, OF THE TOWN CHARTER IS HELD IN JANUARY, 2008; EFFECTIVE DATE; SEVERABILITY; REPEALING CLAUSE.

WHEREAS, 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, Florida Statute 100.3605 (2) authorizes the Town of Fort Myers Beach to change, by ordinance, the dates for qualifying and for the election of members of the Town Council and provide for the orderly transition of office resulting from such date changes; and

WHEREAS, Florida Statute 166.021 (4) provides that a municipality has the right to select election dates and qualifying periods for candidates and changes in terms of office necessitated by such changes in election dates without approval by referendum of the Town elections; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach 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, the Town Council is considering whether it may be in the best interest of the Town to hold a referendum or referendums to ascertain, inter alia, whether the Town electorate wishes to change the manner of election of Councilmembers from that set forth in Article IV and/or Article V of the Town Charter but no final decision has been made; and

WHEREAS, such referendum(s), if any, would be conducted on January 29, 2008, in conjunction with the Presidential Preference Primary, since the Supervisor of Elections has determined that it would be at no cost to the Town on the date and such cost-savings are in the best interest of the Town; and

WHEREAS, Article V of the Town Charter provides for the regular election of the members of council on the second Tuesday in March with a run-off election if necessary on the second Tuesday in April, if no candidate receives a majority of votes for that office; and

WHEREAS, if such referendum(s) are approved by the electorate in January, 2008, the methodology of election at the Town would be altered, and insufficient time exists

between the passage of any such referendum or referendums and a Town election in March, 2008, to implement the electorate's decision; and

WHEREAS, the Lee County Supervisor of Elections has advised the Town Council that she could conduct the Town's general election on April 8, 2008, which would allow for sufficient time for Town candidates to qualify under changes, if any, to the Town's election methodology caused by Town referendum(s), if any are held in January, 2008.

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

SECTION 1. INCORPORATION: The above "whereas" clauses are hereby incorporated into the body of this Resolution by reference.

SECTION 2. AMENDMENT – ELECTIONS. The "Town of Fort Myers Beach Charter" adopted as Chapter 95-494, Laws of Florida is amended as follows for the next general election:

“ Section 5.01. Elections. The regular election of the members of the council shall be held on ~~the second Tuesday in March~~ the 2<sup>nd</sup> Tuesday of April, effective in 2008. If necessary, a runoff election will be held on the ~~second~~ third Tuesday in ~~April.~~ May, effective in 2008. The time period that candidates must qualify shall be from noon of the 50<sup>th</sup> day prior to ~~the second Tuesday in March~~ the second Tuesday of April, effective in 2008 to noon of the 46<sup>th</sup> day, or as adjusted by a holiday or leap year.”

SECTION 3. EFFECTIVE DATE This Ordinance shall take effect only if a Town Ordinance is passed authorizing the conduct of a referendum in January, 2008, which would, inter alia, alter the electoral process under Article IV or V, or both, of the Town Charter. In the event such Ordinance authorizing the conduct of the said referendum is not passed, this Ordinance shall be null and void and of no effect. Furthermore, this Ordinance shall only be in effect, if at all, for any general election conducted in the year 2008.

SECTION 4. SEVERABILITY CLAUSE. 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 5. REPEALING CLAUSE. All ordinances or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

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

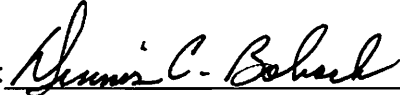
|                         |     |
|-------------------------|-----|
| Dennis C. Boback, Mayor | aye |
| Larry Kiker, Vice Mayor | aye |
| Herb Acken              | nay |
| Charles Meador, Jr.     | aye |
| William Shenko, Jr.     | aye |

DULLY PASSED AND ENACTED this 20<sup>th</sup> day of August, 2007.

ATTEST:

TOWN OF FORT MYERS BEACH

By:   
Michelle D. Mayher, Town Clerk

By:   
Dennis C. Boback, Mayor

Approved as to form by:

  
Anne Dalton, Town Attorney

ORDINANCE No. 07-06

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING THE CHARTER, PROVIDING AUTHORITY; AMENDMENT – REPEAL OF REQUIREMENT OF MAJORITY VOTE; AMENDMENT – REPEAL OF QUALIFICATION FOR SPECIFIC COUNCIL SEAT; AMENDMENT – REPEAL OF REQUIREMENT OF RUN-OFF ELECTION; REFERENDUM; SEVERABILITY; REPEALING CLAUSE AND EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution 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, Article XIII of the Town Charter provides that the Town Council may, by ordinance, propose amendments to any or all of the Charter to be submitted to the electors as provided by general law; and

WHEREAS, the measures set forth in this Ordinance are necessary to provide for the protection of public health, safety and welfare of the citizens of the Town.

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 99.061, 100.3605 and 166, Florida Statutes, and other applicable provisions of law as set forth in the "Whereas" clauses which are hereby incorporated by reference.

**SECTION 2. AMENDMENT - ELECTIONS.** Section 4.01(b) of Article IV of the Town of Fort Myers Beach Charter adopted as Chapter 95-494, Laws of Florida is amended as follows:

Section 4.01(b). Council seats shall be designated as seats #1, #2, #3, #4, and #5. Candidates shall not be required to seek election to a specific seat on the council. All qualified candidates shall be deemed to be seeking election to all open council seats. Assignment of open seat numbers shall be alphabetically by incoming Council members' last names.

**SECTION 3. AMENDMENT - ELECTIONS.** Section 5.01 of Article V of the Town of Fort Myers Beach Charter, adopted as Chapter 95-494, Laws of Florida, is amended as follows:

Section 5.01. The regular election of the members of the council shall be held on the second Tuesday in March. ~~If necessary, a runoff election will be held on the second Tuesday in April.~~ The time period that candidates must qualify shall be from noon of the 50<sup>th</sup> day prior to the second Tuesday in March to noon of the 46<sup>th</sup> day, or as adjusted by a holiday or leap year.

**SECTION 4. AMENDMENT – ELECTIONS.** Section 5.07 of Article V of the Town of Fort Myers Beach Charter, adopted as Chapter 95-494, Laws of Florida is amended as follows:

Section 5.07. In the event that more than two candidates qualify for election than there are open council seats, ~~to a single office,~~ those candidates shall participate in the regular election and the candidate or candidates ~~receiving a majority of the most votes cast shall be elected to the open council seat or seats.~~ ~~If no candidate receives a majority, then the two candidates receiving the most votes shall participate in a runoff election established in Section 5.01 to decide the winner for that office.~~ "

**SECTION 5. REFERENDUM.** The Town Council shall submit the provisions of this ordinance to the vote of the electorate at the special national presidential primary preference election to be held on January 29, 2008 and may combine the questions set forth in the above sections as otherwise permitted by law.

**SECTION 6. EFFECTIVE DATE.** Upon approval by a majority vote of the electorate voting in the referendum and certification of same by the canvassing board, such provision shall be deemed adopted and shall be effective as to the next ensuing election of members of the Town Council. The provision so adopted shall be incorporated in the Town Charter and the charter so revised shall be filed with the Florida State Department. In the event that any of the provisions of this ordinance are not approved by such majority vote, such provision(s) shall be deemed null and void and of no effect.

**Section 7. INTEGRATION** The Town Council has voted to include another Town referendum question in the January, 2008, ballot for determination by the vote of the electorate. In the event that such other referendum question passes and thereby changes the date of council elections from March to November of odd years, the provisions of Section 3, above, shall be deemed to have been modified so as to change the date of council elections and the corresponding dates for qualification in accordance therewith.

Section 8. 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 9. REPEALING CLAUSE. All ordinances or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

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

|                          |            |
|--------------------------|------------|
| Dennis C. Boback , Mayor | <u>nay</u> |
| Larry Kiker, Vice Mayor  | <u>aye</u> |
| Herb Acken               | <u>nay</u> |
| Charles Meador, Jr.      | <u>aye</u> |
| William Shenko, Jr.      | <u>aye</u> |

DULY PASSED AND ADOPTED this 10<sup>th</sup> day of September , 2007.

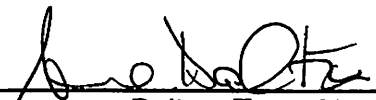
ATTEST:

TOWN OF FORT MYERS BEACH

By:   
Michelle D. Mayher, Town Clerk

By:   
Dennis C. Boback, Mayor

Approved as to legal sufficiency by:

  
Anne Dalton, Town Attorney

## ORDINANCE 07-07

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING THE CHARTER, PROVIDING AUTHORITY; AMENDMENT PROVIDING FOR NOVEMBER ELECTIONS; AMENDMENT PROVIDING FOR FOUR YEAR TERMS FOR COUNCIL; INITIATIVE AND REFERENDUM; SEVERABILITY; REPEALING CLAUSE 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, Article XIII of the Town Charter provides that the Town Council may, by ordinance, propose amendments to any or all of the Charter to be submitted to the electors as provided by general law; and

WHEREAS, the measures set forth in this Ordinance are necessary to provide for the protection of public health, safety and welfare of the citizens of the Town.

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, Chapters 99.061, 100.3605 and 166, Florida Statutes, and other applicable provisions of law as set forth in the "Whereas" clauses which are hereby incorporated herein by reference.

**SECTION 2. AMENDMENT - ELECTIONS.** Section 5.01 of Article V of the Town of Fort Myers Beach Charter, adopted as Chapter 95-494, Laws of Florida is amended as follows:

Section 5.01. Elections. The regular election of the members of the council shall be held on the first Tuesday after the first Monday in November ~~second Tuesday in March~~. If necessary, a runoff election will be held on the first Tuesday in December ~~second Tuesday in April~~. The time period that candidates must qualify shall be from noon of the 50th day prior to the first Tuesday after the first Monday in November ~~second Tuesday in March~~ to noon of the 46th day, or as adjusted by a holiday or leap year.

**SECTION 3. AMENDMENT - ELECTIONS.** Section 5.03 of Article V of the Town of Fort Myers Beach Charter, adopted as Chapter 95-494, Laws of Florida is amended as follows:

Section 5.03 Terms of office.--The terms for all council seats, #1, #2, #3, #4, and #5, shall be for ~~3 years~~ 4 years, except during the transition period, during which councilpersons elected in March, 2007 to seats #1 and #2 shall initially be for serve a term from November, 2000 to March, 2004 March 2007 to November 2011 and seats councilpersons elected in November, 2005 to seats #3, #4, & #5 shall be for serve a term from November, 2004 to March, 2005. November, 2005 to November, 2009. No member of the council shall serve for more than two consecutive full terms. After 1 year out of office, a candidate may re-qualify for any vacant seat.

**SECTION 4. REFERENDUM.** The Town Council shall submit the provisions of this ordinance to the vote of the electorate at the special national presidential primary election to be held on January 29, 2008 and may combine the questions set forth in the above sections as otherwise permitted by law.

**SECTION 5. INTEGRATION** The Town Council recognizes that another Town referendum question may be included in the January, 2008, ballot for determination by the vote of the electorate. In the event that such referendum question, if any, passes and eliminates the provisions in the Town Charter regarding the run-off election, the provisions of Section 2, above, shall be deemed to have been modified so as to eliminate the language regarding the run-off election from the Town Charter.

**SECTION 6. EFFECTIVE DATE.** Upon approval by a majority of the vote of the electorate voting in the referendum and certification of same by the canvassing board, such provision shall be deemed adopted and shall be effective as to the next ensuing election of members of the Town Council. The provision so adopted shall be incorporated in the Town Charter and the charter so revised shall be filed with the Florida State Department. Subject to the provisions of Section 5, above, in the event that any of the provisions of this ordinance are not approved by such majority vote, such provision(s) shall be deemed null and void and of no effect.

**SECTION 7. 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 as invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and shall in no way affect the validity of all other provisions of this ordinance.

**SECTION 8. REPEALING CLAUSE.** Subject to the provisions of Section 5, above, all ordinances or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

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

Dennis C. Boback, Mayor aye  
Herb Acken, abstain  
William Shenko, Jr. aye

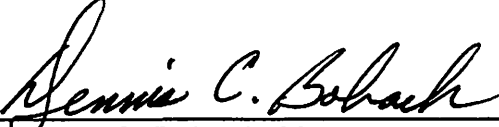
Larry Kiker, Vice Mayor nay  
Charles Meador, Jr. aye

DULY PASSED AND ENACTED this 10<sup>th</sup> day of September, 2007

ATTEST:

TOWN OF FORT MYERS BEACH

By:   
Michelle D. Mayher, Town Clerk

By:   
Dennis C. Boback, Mayor

Approved as to legal sufficiency by:

  
Anne Dalton, Town Attorney

## **RESOLUTION 07-33**

### **A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, PRESENTING REFERENDUM QUESTIONS FOR PROPOSED AMENDMENTS TO THE CHARTER OF THE TOWN OF FORT MYERS BEACH REGARDING COUNCIL TERMS OF OFFICE, NOVEMBER ELECTION IN ODD YEARS, AND RELATED MATTERS**

**WHEREAS, the Town Council of the Town of Fort Myers Beach, Florida, has duly passed ORDINANCE No. 07-07 on September 10, 2007; and**

**WHEREAS, the aforesaid Ordinance shall be submitted to the electors of the Town of Fort Myers Beach, Lee County, Florida for consideration, in accordance with applicable law and provisions of the Charter of the Town of Fort Myers Beach, Florida and as set forth in specificity below; and**

**WHEREAS, this Resolution is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.**

**NOW, THEREFORE IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

**SECTION ONE. PURPOSE.** A referendum election is hereby ordered and called for the purpose of submitting to the qualified electors of the Town of Fort Myers Beach, Lee County, Florida, the question of approval of amendments to the Town Charter.

**SECTION TWO. APPROVAL BY MAJORITY.** The amendment shall take effect if approved by a majority of the qualified electors of the Town voting on each such referendum question in the election to be held on January 29, 2008.

**SECTION THREE. REQUIREMENTS OF LAW.** Said referendum election shall be conducted according to the requirements of the Florida Election Laws. The Supervisor of Elections of Lee County, Florida is hereby directed to present the ballot question set forth below to the voters of Fort Myers Beach, Florida and to hold the referendum election thereon on the Presidential Preference Primary day of January 29, 2008.

**SECTION FOUR. POLLING PLACES AND CONDUCT OF ELECTION.** The referendum election shall be held at the polling places duly designated by the Supervisor of Elections of Lee County, Florida and conducted by election officials duly appointed by applicable General Law. The hours of election, absentee voting, canvassing, delivery of ballots and publication of notice of the referendum question shall be as provided by the requirements of law.

**SECTION FIVE. AUTHORIZATION OF TOWN COUNCIL OR DESIGNEES.** The Town Council or its designees are hereby authorized to take all those actions necessary in order that this referendum question is properly placed on the ballot for the Presidential Preference Primary election of January 29, 2008.

**SECTION SIX. BALLOTS.** The ballots to be used in said referendum shall be in the form as provided by law and shall contain the question to be voted upon. Said question shall be in substantially the following form:

OFFICIAL BALLOT  
CHARTER AMENDMENT FOR FOUR YEAR COUNCIL TERMS, ELECTIONS IN  
NOVEMBER OF ODD YEARS AND TRANSITION

1. Shall Section 5 of the Town Charter relating to council member elections be amended to provide for four year terms of office and to change council elections to November of odd years, with terms for Council seats 1 and 2 elected in March, 2007 to end in November 2011 and terms for Council seats 3,4, and 5 elected in November, 2005 to end in November 2009 for transition purposes?

Shall the above described amendment be adopted?

Yes for Approval \_\_\_\_  
No for Rejection \_\_\_\_

SECTION SEVEN. NOTICE OF ELECTION. The publication of notice of this referendum shall be had in a newspaper of general circulation within Lee County and the first publication shall be at least 30 days prior to the 29<sup>th</sup> day of January, 2008. The publication shall be made at least twice; once in the fifth week and once in the third week prior to the week in which the referendum is to be held.

SECTION EIGHT. EFFECTIVE DATE. This Resolution shall become effective immediately upon its adoption.

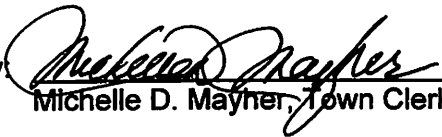
The foregoing Resolution was enacted by the Town Council upon a motion by Councilmember Meador and seconded by Councilmember Shenko and, upon being put to a vote, the result was as follows:

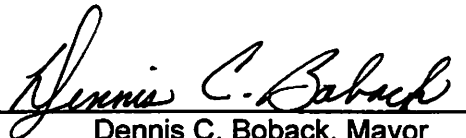
Dennis C. Boback, Mayor aye  
Larry Kiker, Vice Mayor nay  
Herb Acken aye  
Charles Meador, Jr. aye  
William Shenko, Jr. aye

DULY PASSED AND ENACTED this 10<sup>th</sup> day of September, 2007

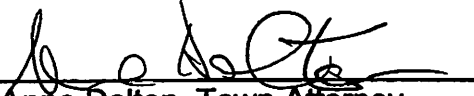
ATTEST:

TOWN OF FORT MYERS BEACH

By:   
Michelle D. Mayher, Town Clerk

By:   
Dennis C. Boback, Mayor

Approved as to legal sufficiency by:

  
Anne Dalton, Town Attorney

## **RESOLUTION 07-34**

**A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, PRESENTING REFERENDUM QUESTIONS FOR PROPOSED AMENDMENTS TO THE CHARTER OF THE TOWN OF FORT MYERS BEACH REGARDING ELECTION BY PLURALITY, ELIMINATION OF REQUIREMENT TO RUN FOR SPECIFIC COUNCIL OFFICE, ELIMINATION OF REQUIREMENT FOR RUN-OFF ELECTION, AND RELATED MATTERS**

**WHEREAS, the Town Council of the Town of Fort Myers Beach, Florida, has duly passed ORDINANCE No. 07-06 on September 10, 2007; and**

**WHEREAS, the aforesaid Ordinance shall be submitted to the electors of the Town of Fort Myers Beach, Lee County, Florida for consideration, in accordance with applicable law and provisions of the Charter of the Town of Fort Myers Beach, Florida and as set forth in specificity below; and**

**WHEREAS, this Resolution is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.**

**NOW, THEREFORE IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

**SECTION ONE. PURPOSE.** A referendum election is hereby ordered and called for the purpose of submitting to the qualified electors of the Town of Fort Myers Beach, Lee County, Florida, the question of approval of amendments to the Town Charter.

**SECTION TWO. APPROVAL BY MAJORITY.** The amendment shall take effect if approved by a majority of the qualified electors of the Town voting on each such referendum question in the election to be held on January 29, 2008.

**SECTION THREE. REQUIREMENTS OF LAW.** Said referendum election shall be conducted according to the requirements of the Florida Election Laws. The Supervisor of Elections of Lee County, Florida is hereby directed to present the ballot question set forth below to the voters of Fort Myers Beach, Florida and to hold the referendum election thereon on the Presidential Preference Primary day of January 29, 2008.

**SECTION FOUR. POLLING PLACES AND CONDUCT OF ELECTION.** The referendum election shall be held at the polling places duly designated by the Supervisor of Elections of Lee County, Florida and conducted by election officials duly appointed by applicable General Law. The hours of election, absentee voting, canvassing, delivery of ballots and publication of notice of the referendum question shall be as provided by the requirements of law.

**SECTION FIVE. AUTHORIZATION OF TOWN COUNCIL OR DESIGNEES.** The Town Council or its designees are hereby authorized to take all those actions

necessary in order that this referendum question is properly placed on the ballot for the Presidential Preference Primary election of January 29, 2008.

SECTION SIX. BALLOTS. The ballots to be used in said referendum shall be in the form as provided by law and shall contain the question to be voted upon. Said question shall be in substantially the following form:

OFFICIAL BALLOT

CHARTER AMENDMENT FOR ELCTION BY PLURALITY VOTE AND  
ELIMINATION OF QUALIFICATION FOR SPECIFIC COUNCIL SEAT

Should the Town Charter be amended to eliminate the requirement of candidates to seek election to a specific council seat and to provide that eligible candidates receiving the greatest number of votes fill the available seats without requiring a majority vote?

Shall the above described amendment be adopted?

Yes for Approval \_\_\_\_

No for Rejection \_\_\_\_

SECTION SEVEN. NOTICE OF ELECTION. The publication of notice of this referendum shall be had in a newspaper of general circulation within Lee County and the first publication shall be at least 30 days prior to the 29<sup>th</sup> day of January, 2008. The publication shall be made at least twice; once in the fifth week and once in the third week prior to the week in which the referendum is to be held.

SECTION EIGHT. EFFECTIVE DATE. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was enacted by the Town Council upon a motion by Vice Mayor Kiker and seconded by Council Member Shenko and, upon being put to a vote, the result was as follows:

Dennis C. Boback, Mayor nay  
Larry Kiker, Vice Mayor aye  
Herb Acken aye  
Charles Meador, Jr. aye  
William Shenko, Jr. aye

DULY PASSED AND ENACTED this 10<sup>th</sup> day of September, 2007

ATTEST:

TOWN OF FORT MYERS BEACH

By:

  
Michelle D. Mayher

By:

  
Dennis C. Boback, Mayor

  
Anne Dalton, Town Attorney

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 08-09

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING THE TOWN CLERK TO AMEND THE TOWN CHARTER TO INCORPORATE THE RESULTS OF THE REFERENDUM HELD ON JANUARY 29, 2008, REGARDING REPEAL OF REQUIREMENT OF MAJORITY VOTE; REPEAL OF QUALIFICATION FOR SPECIFIC COUNCIL SEAT; REPEAL OF REQUIREMENT OF RUN-OFF ELECTION; DECLARATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution 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, the Town Charter of the Town of Fort Myers Beach, Florida was adopted as Chapter 95-494, Laws of Florida; and Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, Section 13.01 of Article XIII of the Town Charter provides that the Council may, by ordinance, propose amendments to the Charter with such ordinance(s) to be submitted to the electors, as provided by general law; and

WHEREAS, the Town Council of the Town of Fort Myers Beach passed Ordinance 07-06 and Resolution 07-34 calling for a referendum election for the purpose of submitting to the qualified electors of the Town, the question of approval of an amendment to the Town Charter regarding the repeal of the requirement of majority vote for election of councilmembers; repeal of qualification for a specific council seat; and related matters, as permitted by the Charter and as set forth with specificity below; and

WHEREAS, Town Resolution 08-05 certified that the aforesaid Referendum was approved by the electors on January 29, 2008, and further provided that the charter was so amended.

IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH, FLORIDA AS FOLLOWS:

SECTION ONE. Whereas Clauses The above "Whereas" recitals are incorporated herein by reference.

SECTION TWO. Amendment to Section 4.01(b) of Article IV of Town Charter. The Town Clerk is hereby directed to insert the following amendment as Section 4.01(b) of Article IV of the Town Charter:

Section 4.01(b). Council seats shall be designated as seats #1, #2, #3, #4, and #5. Candidates shall not be required to seek election to a specific seat on the council. All qualified candidates shall be deemed to be seeking election to all open council seats. Assignment of open seat numbers shall be alphabetically by incoming Council members' last names.

SECTION THREE. Amendment to Section 5.01 of Article V of Town Charter. The Town Clerk is hereby directed to insert the following amendment as Section 5.01 of Article V of the Town Charter:

Section 5.01. The regular election of the members of the council shall be held on the second Tuesday in March. ~~If necessary, a runoff election will be held on the second Tuesday in April.~~ The time period that candidates must qualify shall be from noon of the 50<sup>th</sup> day prior to the second Tuesday in March to noon of the 46<sup>th</sup> day, or as adjusted by a holiday or leap year.

SECTION FOUR Amendment to Section 5.07 of Article V of Town Charter. The Town Clerk is hereby directed to insert the following amendment as Section 5.07 of Article V of the Town Charter:

Section 5.07. In the event that more than two candidates qualify for election ~~than there are open council seats, to a single office,~~ those candidates shall participate in the regular election and the candidate or candidates receiving a majority of the most votes cast shall be elected to the open council seat or seats. ~~If no candidate receives a majority, then the two candidates receiving the most votes shall participate in a runoff election established in Section 5.01 to decide the winner for that office.~~ "

SECTION FIVE. Transmission to Florida Department of State, Division of Library and Information Services. The Town Clerk is hereby directed to file a copy of the Town Charter as amended herein with the Florida Department of State, Division of Library and Information Services as soon as possible.

SECTION SIX. Effective Date This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach, Florida. Nothing contained herein, however, shall supercede the requirements of Town Ordinance 07-05 regarding the Town general election scheduled for April 8, 2008.

The foregoing resolution was adopted by the Fort Myers Beach Town Council upon motion by Councilmember Meador and second by Councilmember Shenko and being put to a vote, the result was as follows:

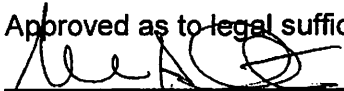
Dennis Boback, Mayor aye  
Herb Acken, Councilmember aye  
William Shenko, Jr., Councilmember aye

Larry Kiker, Vice Mayor aye  
Charles Meador, Jr., Councilmember aye

APPROVED THIS 19<sup>th</sup> DAY OF FEBRUARY, 2008.

ATTEST:  
By:   
Michelle D. Mayher, Town Clerk

TOWN OF FORT MYERS BEACH  
By:   
Dennis C. Boback, Mayor

Approved as to legal sufficiency and form by:  
  
Anne Dalton, Town Attorney

ORDINANCE NO. 15 - 02

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH FLORIDA, SUBMITTING TO REFERENDUM CERTAIN AMENDMENTS TO THE CHARTER OF THE TOWN OF FORT MYERS BEACH; AMENDING ARTICLE II, TERRITORIAL BOUNDARIES, SECTION 2.01; AMENDING ARTICLE IV, CHARTER OFFICERS, SECTIONS 4.01 THRU 4.05, SECTIONS 4.07, 4.08, AND SECTIONS 4.11 THRU 4.13; AMENDING ARTICLE V, NOMINATIONS AND ELECTIONS, SECTIONS 5.03 AND CREATING SECTION 5.08, ESTABLISHING THE TOWN CANVASSING BOARD; AMENDING ARTICLE VI, TOWN MANAGER, SECTIONS 6.01 AND 6.02; AMENDING ARTICLE X, ORDINANCES AND RESOLUTIONS, SECTION 10.02; AMENDING ARTICLE XI, FINANCIAL PROCEDURES, SECTION 11.03; AMENDING ARTICLE XII, INITIATIVE AND REFERENDUM, SECTION 12.01 AND DELETING SECTION 12.02; AMENDING ARTICLE XIII, CHARTER AMENDMENTS, SECTION 13.03; DELETING ARTICLE XV, TRANSITION; DELETING ARTICLE XVI, INDEPENDENT SPECIAL DISTRICTS; DELETING ARTICLE XVII, REVENUE SHARING; PROVIDING FOR NOTICE TO BE PUBLISHED; PROVIDING THAT THIS ORDINANCE, WHEN ADOPTED, SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN OF FORT MYERS BEACH IN MARCH 2016 AND SHALL BECOME EFFECTIVE AS PROVIDED BY LAW; PROVIDING FOR BALLOT TITLES AND QUESTIONS; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS AND SEVERABILITY; PROVIDING FOR MODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council ("the Council") is the governing body in and for the Town of Fort Myers Beach, a municipal corporation in the State of Florida; and

WHEREAS Chapter 166, Florida Statutes, provides for the methodology for Charter amendments where such amendments may be submitted to a referendum vote by the municipal governing body, in an ordinance format; and

WHEREAS, Section 13.03 of the Charter mandates the appointment of a Charter Review Commission at least every 10 years, which shall review the municipal charter and recommend to the Town Council such revisions and amendments as the Commission determines to be desirable; and

WHEREAS, the Charter Review Commission has made its recommendations which have been to the Town Council for their consideration and by the electors of Fort Myers Beach; and

WHEREAS, the Town Council has read, reviewed, and publically considered the recommendations of the Charter Review Commission and has embraced their recommendation in this Ordinance.

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

#### **SECTION 1: AMENDMENTS**

The Charter of Fort Myers Beach, Florida is hereby amended as follows (underlined sections are additions; ~~striketrough~~ sections are deletions):

#### **Referendum Item 1**

##### **Article II: Territorial Boundaries**

Section 2.01 Boundaries of the Town of Fort Myers Beach.--The territorial boundaries of the Town of Fort Myers Beach upon the date of incorporation shall include the following areas situated in the County of Lee, State of Florida:

A corporate limit lying offshore from Estero Island, which line is described as follows: all that part of Lee County ~~that is located and~~ situated within Estero Island, ~~including a corporate limit line offshore and the area within~~ 1,000 feet in the Gulf of Mexico and 1,000 feet in the inland bays, and parallel with the shore line of said Estero Island, excluding all of San Carlos Island, Black Island and, structures exclusively attached thereto.

#### **Referendum Item 2**

##### **Article IV: Charter Officers**

Section 4.01 Council members; elections.--

(a) There shall be a town council, hereinafter referred to as the council, with all legislative powers of the town vested therein, consisting of five council members, all of

whom shall be elected from the town at-large, ~~, for the initial election. The council shall place the matter of a change in the charter regarding at-large or district elections for council members to a vote of the electorate no later than 2 years after formation of the municipality with public hearings as to said matter as required under section 13.03 hereof.~~

(b) Council seats shall be designated as seats #1, #2, #3, #4, and #5. ~~Candidates shall not seek election to a specific seat on the council.~~ All qualified candidates shall be deemed to be seeking election to all open council seats. Assignment of open seat numbers shall be alphabetically by incoming Council members' last names.

### **Referendum Item 3**

#### **Article IV: Charter Officers**

Section 4.02 Mayor.--At the first ~~regularly scheduled meeting following the town's regular election~~ meeting after the second Tuesday in March, the council, by majority vote, shall elect from its membership a mayor. The mayor shall serve as chairperson during meetings of the council and shall serve as the head of municipal government for the purpose of execution of legal documents as required by ordinance. The mayor shall also serve as the ceremonial head of the town.

Section 4.03 Vice mayor.--At the first ~~regularly scheduled meeting following the town's regular election~~ meeting after the second Tuesday in March, the council, by a majority vote, shall elect from among its membership a vice mayor who shall serve as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become interim mayor pursuant to section 4.08 of this charter.

### **Referendum Item 4**

#### **Article IV: Charter Officers**

##### **Section 4.04 Prohibitions--**

a) Neither the council, nor any individual member of the council, shall in any manner dictate the employment or removal of any employee other than the town manager and town attorney. No individual member of the council shall give orders to any officer or employee of the town. Recommendations for the improvements in the town government operations shall come through the town manager, but each member of the council shall be free to discuss or recommend improvements to the town manager, and the council is free to direct the town manager to implement specific recommendations for improvement in town government operations. Violations of this Section of the

**Charter shall constitute malfeasance within the meaning of Section 100.361, Florida Statutes, as may be amended.**

**Referendum Item 5**

**Article IV: Charter Officers**

**Section 4.05 Compensation.—**

**~~a) An ordinance establishing, increasing, or decreasing compensation of the council may be adopted at any time; however, in no event shall any establishment of compensation or any increase in compensation become effective prior to the first day of the first month following the first regular election of the town subsequent to the adoption of such ordinance.~~ Effective April 1, 2016, base pay for the Mayor will be \$19,200 annually and Council Members will be \$16,800 annually as compensation for their services. Compensation shall be revised annually based on across-the-board adjustments budgeted for staff and administered at the same time as Town employees.**

**Referendum Item 6**

**Article IV: Charter Officers**

**Section 4.07 Forfeiture of office.—**A member of the council may forfeit the office, if the member:

**(d) Misses three consecutive regularly scheduled council meetings without an excused absence.**

**(e) Does not maintain a permanent residence in the Town of Fort Myers Beach.**

**Referendum Item 7**

**Article IV: Charter Officers**

**Section 4.08 Filling of vacancies.—**A vacancy on the council, except for the position of mayor, shall be filled by appointment by majority vote of the council members remaining, and said appointment shall be effective until a successor is chosen at the next regular election. In the event that a majority of the members ~~of the council~~ are removed by death, disability, law, or forfeiture of office, the governor shall appoint an interim council that shall call a special election to be held within 45 days following the occurrence of the vacancies to elect a new council. In the event that the mayor becomes unable to fulfill the duties of ~~his~~ office, ceases to be qualified, or is removed from office as provided by law or this charter, the vice mayor ~~of the council~~ shall

assume the full powers and duties of the mayor. The vice mayor ~~of the council shall temporarily relinquish his office as council member and~~ shall assume the office of mayor for the remainder of the unexpired term. The council vacancy thus created shall be filled by an interim appointment under the provisions of this charter, to be effective only until such time as the mayor resumes ~~his~~ office or until the expiration of the term of the office, whichever occurs first.

#### **Referendum Item 8**

##### **Article IV: Charter Officers**

Section 4.11 Meetings.—The council shall meet regularly at least eight times per year and shall meet no less often than bimonthly at such times and locations within the boundaries of the town as the council may prescribe. Special meetings may be held on the call of the mayor or the town manager ~~and, whenever practical, upon no less than a 24-hour notice~~ with reasonable 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. A special meeting may be held outside the town with ~~proper notice~~ with reasonable notice. All meetings shall be public and shall be scheduled to commence no earlier than 7 a.m. nor later than 10 p.m.

#### **Referendum Item 9**

##### **Article IV: Charter Officers**

Section 4.12 Rules ~~and journal~~.—The council shall determine its own rules and order of business and shall provide for keeping ~~a journal and~~ minutes of its proceedings. The ~~journal and~~ minutes shall be public records. The Town Council shall maintain a Policies and Procedures Manual that provides guidelines for how it will operate.

#### **Referendum Item 10**

##### **Article IV: Charter Officers**

Section 4.13 Voting; quorum.—Roll call voting shall be required for ordinances or upon the specific request of a council member and shall be recorded in the minutes; otherwise, voting shall be by ayes and nays. Three members of the council shall constitute a quorum. No action of the council shall be valid or binding unless adopted by the affirmative vote of ~~a majority of the~~ at least 3 members of council, except in an emergency situation. All council members in attendance shall vote on all council actions, except when, with respect to any such member, there is, or appears to be, a possible conflict of interest as defined under general law.

## Referendum Item 11

### **Article V: Nominations and Elections**

#### **Section 5.03 Terms of office.—**

The terms for all council seats, #1, #2, #3, #4, and #5, shall be for ~~3~~ 4 years with elections held every other year ending in an odd number. Seats #1 and #2 shall initially be for a term from March 2016 to March 2019. , ~~except during the transition period, seats #1 and #2 shall initially be for a term from November, 2000 to March, 2004 and seats #3, #4, & #5 shall be for a term from November, 2001 to March, 2005.~~

## Referendum Item 12

### **Article V: Nominations and Elections**

#### **Section 5.03 Terms of office.—**

~~No member of the council shall serve for more than two consecutive full terms. After one year out of office, a candidate may re-qualify for any vacant seat.~~

## Referendum Item 13

### **Article V: Nominations and Elections**

**Section 5.09.—The town canvassing board shall be composed of a Town Council Member, selected by Town Council, who is not a candidate for reelection, the Town Manager and the Town Clerk, who shall act as chairperson. At the close of polls of any town election, or as soon thereafter as practicable, the canvassing board shall meet at a time and place designated by the chairperson and shall proceed to publicly canvass the vote as shown by the returns then on file in the Office of the Supervisor of Elections. The Board shall prepare and sign a certificate containing the total number of votes cast for each person or other measure voted on. The certificate shall be placed on file with the Town Clerk.**

## Referendum Item 14

### **Article VI: Town Manager**

**Section 6.01 Appointment and qualifications.—The council shall appoint a town manager** ~~for an indefinite term and fix compensation.~~ The town manager shall be appointed primarily on the basis of executive and administrative qualifications.

Section 6.02 Removal.—The council may remove the town manager for any reason by affirmative vote of **at least 3 members of** the council. If the vote is less than unanimous by all council members, the town manager may, within 7 days of the dismissal motion by council, submit to the mayor a written request for reconsideration. Any action taken by the council at the reconsideration hearing shall be final.

### **Referendum Item 15**

#### **Article X: Ordinances and Resolutions**

Section 10.02 Adoption of ordinances.—

(b) ~~To meet a public emergency affecting life, health, property, or the public peace, the~~ **The** council, **as provided by a two-thirds vote of those present as required** by general law, may adopt an emergency ordinance without complying with the requirements of notice expressed in the foregoing paragraph. ~~An emergency ordinance may not levy taxes; grant, renew, or extend a franchise; set service or user charges for any municipal services; or authorize the borrowing of money.~~ An emergency ordinance shall become effective upon adoption and automatically stand repealed as of the 61st day following the date on which it was adopted. This shall not prevent reenactment of such an ordinance under regular procedures.

### **Referendum Item 16**

#### **Article XI: Financial Procedures**

Section 11.03 Council action on the budget.—

~~(b) Unless authorized by the electors of the town at a duly held referendum election, the council shall not authorize or allow to be authorized the issuance of revenue bonds or enter into lease purchase contracts or any other unfunded multi-year contracts all for the purchase of real property or the construction of any capital improvement, the repayment of which extends in excess of 36 months, unless mandated by state or federal governing agencies.~~

### Referendum Item 17

#### **Article XII: Initiative and Referendum**

Section 12.01 Initiative and referendum.--At least ~~25~~ 15 percent of the qualified electorate of the town shall have the power to petition the council to propose an ordinance or to require reconsideration of an adopted ordinance, and if the council fails to adopt such ordinance so proposed, or to repeal such adopted ordinance, without any change in substance, then the council shall place the proposed ordinance, or the repeal of the adopted ordinance, on the ballot at the next municipal election.

### Referendum Item 18

#### **Article XII: Initiative and Referendum**

~~Section 12.02 Tolls Referendum. The council may impose road or bridge tolls only after approval by the electors, as provided by general law.~~

### Referendum Item 19

#### **Article XIII: Charter Amendments**

Section 13.03 Charter review.--The charter will be reviewed ~~no later than 3 years after approval, then no later than 5 years after the initial charter review, and thereafter~~ at least every 10 years. A five-member charter review commission shall be appointed and funded by the council. The charter review commission shall be appointed at least 6 months before the next scheduled election and complete its work and present any recommendations to the Council for change no later than 60 days before the election. The council shall hold a minimum of two public hearings ~~on~~ to approve, reject or modify the proposed changes to the charter prior to placing the proposed changes on the scheduled election ballot.

### Referendum Item 20

#### **~~Article VX: Transition~~**

~~Section 15.03 Creation and establishment of the town of Fort Myers Beach. For the purpose of compliance with section 200.066, Florida Statutes, relating to assessment and collection of ad valorem taxes, the Town of Fort Myers Beach is hereby created and established effective December 31, 1995.~~

~~Section 15.11 Contractual services and facilities. Services for fire, police, public works, parks and recreation, planning and zoning, building inspection, development reviews, animal control, and solid waste collection may be supplied~~

~~by contract between the town and county, special districts, municipalities, or private enterprise until such time as the town council establishes such independent services. Facilities for housing the newly formed municipal operations may be rented or leased until the town is in the position to obtain its own facilities.~~

~~Section 15.12 Elimination of transition elements from the charter. Upon completion of the transition phase as contained herein, those sections of the charter relating to transition shall be eliminated from the charter.~~

### Referendum Item 21

#### ~~Article XVI: Independent Special Districts~~

~~Section 16.01 It is recognized that certain services within the municipal boundaries are provided by independent special districts created by special acts of the Florida Legislature. The municipality is empowered to merge the functions of said districts with those of the municipality only upon dissolution of the special district, or upon affirmative vote of a majority of the town council and an affirmative vote of the majority of the council or board governing the district after meeting all requirements for merger or dissolution in the district's enabling legislation and chapter 189, Florida Statutes. It is recognized that certain planning and interlocal agreements may be necessary between the town and such districts and the town council shall endeavor to maximize the benefits of the districts to the fullest extent possible. In the event the town council desires to supplement or duplicate services determined to be inadequate, the council is fully empowered to do so.~~

### Referendum Item 22

#### ~~Article XVII: Revenue Sharing~~

~~Section 17.01 It is recognized that the services provided by independent districts within the municipal boundaries provide essential services which would customarily be provided by municipal government. It is therefore declared that the Town of Fort Myers Beach shall be eligible to participate in revenue sharing beyond the minimum entitlement in any fiscal year, provided that the town and all independent special districts created under special law, combined, levy ad valorem taxes in amounts as required by section 218.23, Florida Statutes.~~

## **SECTION 2: BALLOT TITLES AND QUESTIONS**

The proposed ballot titles and questions for each Referendum Item proposed herein to be placed on the March X, 2016 ballot for consideration by the qualified electors of the Town of Fort Myers Beach are fully described in Exhibit "A" to this Ordinance, attached hereto and incorporated herein. The Town Council reserves the right to further amend the ballot titles and questions, but not the Charter amendments themselves, if necessary to clarify the intent of the proposed revisions for the voting public; any such proposed changes must be made by Resolution of the Council prior to ballot finalization by the Lee County Supervisor of Elections.

## **SECTION 2: CODIFICATION AND SCRIVENER'S ERRORS**

The Town Council intends that this Ordinance be made part of the Charter and Code of Ordinances, Town of Fort Myers Beach, Florida; and that sections of this Ordinance can be renumbered or re-lettered to the appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or re-lettered and typographical errors and clarification of ambiguous wording that do not affect the intent can be corrected with the authorization of the Town Manager without the need for a public hearing.

## **SECTION 3: CONFLICTS OF LAW AND SEVERABILITY**

*Conflicts of Law.* Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

*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 thereof.

## **SECTION 5: MODIFICATION**

It is the intent of the Council that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications will be incorporated into the final version of this Ordinance.

**SECTION 6: EFFECTIVE DATE**

This Ordinance shall take effect immediately upon adoption by the Town Council.

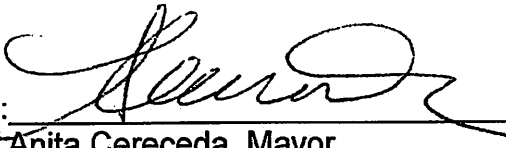
[The remainder of this page is intentionally left blank]

The foregoing Ordinance was adopted by the Town Council upon a motion by Vice Mayor Andre and seconded by Councilwoman Hosafros and upon being put to a vote, the result was as follows:

Anita Cereceda, Mayor     AYE  
Rexann Hosafros             AYE  
Summer Stockton            AYE

Dan Andre, Vice Mayor     AYE  
Alan Mandel                 NAY

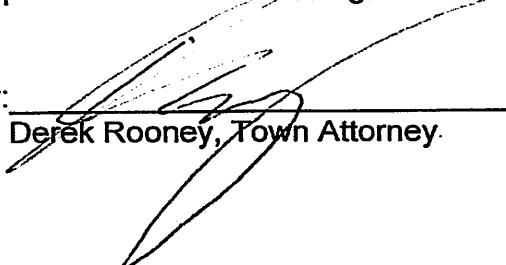
DULY PASSED AND ADOPTED THIS 21st DAY OF September, 2015, BY THE  
TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By:   
Anita Cereceda, Mayor

ATTEST:

By:   
Michelle D. Mayher, Town Clerk

Approved as to form and legal sufficiency:

By:   
Derek Rooney, Town Attorney

## **EXHIBIT A**

### **Referendum Item 1.**

**The Ballot Title shall be as follows:**

**REFERENDUM AMENDING CHARTER, CLARIFYING THE TERRITORIAL  
BOUNDARIES OF FORT MYERS BEACH.**

A corporate limit lying offshore from Estero Island, which line is described as follows: all that part of Lee County ~~that is located and~~ situated within Estero Island, ~~including a corporate limit line offshore~~ and the area within 1,000 feet in the Gulf of Mexico and 1,000 feet in the inland bays, and parallel with the shore line of said Estero Island, excluding all of San Carlos Island, Black Island and, structures exclusively attached thereto.

**The Ballot Question shall be as follows:**

The Town Charter currently describes its territorial waters as a corporate limit 1,000 feet offshore rather than more clearly states as the area within 1,000 feet of Estero Island into the Gulf of Mexico. Shall the Charter be revised to clarify this language?

YES ☐ NO ☐

## Referendum Item 2.

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, REMOVING OUT-OF-DATE LANGUAGE  
REFERRING TO THE TOWN'S FIRST ELECTION.

Section 4.01 Council members; elections.--

(a) There shall be a town council, hereinafter referred to as the council, with all legislative powers of the town vested therein, consisting of five council members, all of whom shall be elected from the town at-large, ~~for the initial election. The council shall place the matter of a change in the charter regarding at-large or district elections for council members to a vote of the electorate no later than 2 years after formation of the municipality with public hearings as to said matter as required under section 13.03 hereof.~~

(b) Council seats shall be designated as seats #1, #2, #3, #4, and #5. ~~Candidates shall not seek election to a specific seat on the council.~~ All qualified candidates shall be deemed to be seeking election to all open council seats. Assignment of open seat numbers shall be alphabetically by incoming Council members' last names.

The Ballot Question shall be as follows:

The Town Charter still describes the process for the election of the Town's inaugural council. Shall the Charter be amended to remove this out-of-date language?

YES ☐ NO ☐

### Referendum Item 3.

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, CLARIFYING THE DATE OF TOWN OFFICER SELECTIONS.

Section 4.02 Mayor.--At the first ~~regularly scheduled meeting following the town's regular election~~ meeting after the second Tuesday in March, the council, by majority vote, shall elect from its membership a mayor. The mayor shall serve as chairperson during meetings of the council and shall serve as the head of municipal government for the purpose of execution of legal documents as required by ordinance. The mayor shall also serve as the ceremonial head of the town.

Section 4.03 Vice mayor.--At the first ~~regularly scheduled meeting following the town's regular election~~ meeting after the second Tuesday in March, the council, by a majority vote, shall elect from among its membership a vice mayor who shall serve as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become interim mayor pursuant to section 4.08 of this charter.

The Ballot Question shall be as follows:

The Town Charter sets the selection of office of Mayor and Vice Mayor to the first meeting following the Town Election. Shall the Charter be amended to clarify this date as the first meeting following the second Tuesday in March?

YES ☐ NO ☐

**Referendum Item 4.**

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, PROVIDING THAT VIOLATIONS OF THE CHARTER'S NON-INTERFERENCE PROVISIONS CONSTITUTE GROUNDS FOR RECALL.

**Section 4.04 Prohibitions--**

a) Neither the council, nor any individual member of the council, shall in any manner dictate the employment or removal of any employee other than the town manager and town attorney. No individual member of the council shall give orders to any officer or employee of the town. Recommendations for the improvements in the town government operations shall come through the town manager, but each member of the council shall be free to discuss or recommend improvements to the town manager, and the council is free to direct the town manager to implement specific recommendations for improvement in town government operations. **Violations of this Section of the Charter shall constitute malfeasance within the meaning of Section 100.361, Florida Statutes, as may be amended.**

The Ballot Question shall be as follows:

Shall the Town Charter be amended to provide that violations of Charter's non-interference with Town staff requirements constitute grounds for a councilmember's recall?

YES [ ] NO [ ]

**Referendum Item 5.**

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, SETTING COUNCILMEMBER SALARIES  
AND METHOD FOR ADJUSTMENT.

Section 4.05 Compensation.—

a) ~~An ordinance establishing, increasing, or decreasing compensation of the council may be adopted at any time; however, in no event shall any establishment of compensation or any increase in compensation become effective prior to the first day of the first month following the first regular election of the town subsequent to the adoption of such ordinance.~~ Effective April 1, 2016, base pay for the Mayor will be \$19,200 annually and Council Members will be \$16,800 annually as compensation for their services. Compensation shall be revised annually based on across-the-board adjustments budgeted for staff and administered at the same time as Town employees.

The Ballot Question shall be as follows:

The Town Charter currently provides the Council can set its own compensation is by ordinance. Shall the Charter be revised to set Council pay and the method for its adjustment?

YES ☐ NO ☐

**Referendum Item 6.**

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, CLARIFYING THE TERMS OF FORFEITURE OF OFFICE.

Section 4.07 Forfeiture of office.--A member of the council may forfeit the office, if the member:

(d) Misses three consecutive regularly scheduled council meetings **without an excused absence**.

**(e) Does not maintain a permanent residence in the Town of Fort Myers Beach.**

The Ballot Question shall be as follows:

Shall the Town Charter be amended to provide for the forfeiture of a councilmember's seat upon their failure to attend regular meetings or live within the Town?

YES ☐ NO ☐

## **Referendum Item 7.**

The Ballot Title shall be as follows:

**REFERENDUM AMENDING CHARTER, CLARIFYING THE LANGUAGE REGARDING THE FILLING OF COUNCILMEMBER VACANCIES.**

Section 4.08 Filling of vacancies.—A vacancy on the council, except for the position of mayor, shall be filled by appointment by majority vote of the council members remaining, and said appointment shall be effective until a successor is chosen at the next regular election. In the event that a majority of the members ~~of the council~~ are removed by death, disability, law, or forfeiture of office, the governor shall appoint an interim council that shall call a special election to be held within 45 days following the occurrence of the vacancies to elect a new council. In the event that the mayor becomes unable to fulfill the duties of ~~his~~ office, ceases to be qualified, or is removed from office as provided by law or this charter, the vice mayor ~~of the council~~ shall assume the full powers and duties of the mayor. The vice mayor ~~of the council shall temporarily relinquish his office as council member and~~ shall assume the office of mayor for the remainder of the unexpired term. The council vacancy thus created shall be filled by an interim appointment under the provisions of this charter, to be effective only until such time as the mayor resumes ~~his~~ office or until the expiration of the term of the office, whichever occurs first.

The Ballot Question shall be as follows:

Shall the Town Charter be revised to remove unnecessary language relating to the filling of council vacancies?

YES [ ] NO [ ]

**Referendum Item 8.**

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, PROVIDING FOR REASONABLE NOTICE  
OF ALL MEETINGS.

Section 4.11 Meetings.--The council shall meet regularly at least eight times per year and shall meet no less often than bimonthly at such times and locations within the boundaries of the town as the council may prescribe. Special meetings may be held on the call of the mayor or the town manager ~~and, whenever practical, upon no less than a 24-hour notice~~ with reasonable 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. A special meeting may be held outside the town with ~~proper notice~~ with reasonable notice. All meetings shall be public and shall be scheduled to commence no earlier than 7 a.m. nor later than 10 p.m.

The Ballot Question shall be as follows:

The Town Charter currently requires at least 24 hours notice for all Council meetings.  
Shall the Charter be revised to require reasonable notice be provided for all meetings?

YES ☐ NO ☐

**Referendum Item 9.**

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, REMOVING THE REQUIREMENT FOR A JOURNAL AND PROVIDING FOR RULES OF PROCEDURE.

Section 4.12 Rules ~~and journal~~.--The council shall determine its own rules and order of business and shall provide for keeping ~~a journal and~~ minutes of its proceedings. The ~~journal and~~ minutes shall be public records. **The Town Council shall maintain a Policies and Procedures Manual that provides guidelines for how it will operate.**

The Ballot Question shall be as follows:

Shall Town Charter be amended to remove the requirement for a journal-keeping, in addition to minutes, and to require the Council to maintain a policy and procedure manual to govern its activities?

YES ☐ NO ☐

**Referendum Item 10.**

The Ballot Title shall be as follows:

**REFERENDUM AMENDING CHARTER, PROVIDING FOR A MINIMUM VOTE OF THREE COUNCILMEMBERS TO TAKE OFFICIAL ACTIONS.**

Section 4.13 Voting; quorum.—Roll call voting shall be required for ordinances or upon the specific request of a council member and shall be recorded in the minutes; otherwise, voting shall be by ayes and nays. Three members of the council shall constitute a quorum. No action of the council shall be valid or binding unless adopted by the affirmative vote of ~~a majority of the~~ **at least 3 members of** council, **except in an emergency situation**. All council members in attendance shall vote on all council actions, except when, with respect to any such member, there is, or appears to be, a possible conflict of interest as defined under general law.

The Ballot Question shall be as follows:

The Town Charter currently would allow for an official action to be adopted upon the vote of only two members in the event of a voting conflict or absentee member. Shall the Charter be amended to provide that all actions, except in emergencies, require an affirmative vote of at least three councilmembers?

YES ☐ NO ☐

**Referendum Item 11.**

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, EXTENDING THE COUNCILMEMBERS  
TERMS OF OFFICE FROM THREE TO FOUR YEARS.

Section 5.03 Terms of office.—

The terms for all council seats, #1, #2, #3, #4, and #5, shall be for ~~3~~ 4 years with elections held every other year ending in an odd number. Seats #1 and #2 shall initially be for a term from March 2016 to March 2019. , ~~except during the transition period, seats #1 and #2 shall initially be for a term from November, 2000 to March, 2004 and seats #3, #4, & #5 shall be for a term from November, 2001 to March, 2005.~~

The Ballot Question shall be as follows:

The Town Charter currently limits councilmember terms to three year terms. Shall the Charter be amended to allow for terms of four years?

YES ☐ NO ☐

**Referendum Item 12.**

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, ELIMINATING TERM LIMITS.

Section 5.03 Terms of office.—

~~No member of the council shall serve for more than two consecutive full terms.  
After one year out of office, a candidate may re-qualify for any vacant seat.~~

The Ballot Question shall be as follows:

The Town Charter currently limits councilmembers to two consecutive terms. Shall the Charter be amended to eliminate consecutive term limits?

YES ☐ NO ☐

**Referendum Item 13.**

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, ESTABLISHING A CANVASSING BOARD.

**Section 5.09.—The town canvassing board shall be composed of a Town Council Member, selected by Town Council, who is not a candidate for reelection, the Town Manager and the Town Clerk, who shall act as chairperson. At the close of polls of any town election, or as soon thereafter as practicable, the canvassing board shall meet at a time and place designated by the chairperson and shall proceed to publicly canvass the vote as shown by the returns then on file in the Office of the Supervisor of Elections. The Board shall prepare and sign a certificate containing the total number of votes cast for each person or other measure voted on. The certificate shall be placed on file with the Town Clerk.**

The Ballot Question shall be as follows:

Shall the Town Charter be amended to establish a canvassing board to review and certify Town election results?

YES [ ] NO [ ]

## Referendum Item 14.

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, CLARIFYING THE APPOINTMENT OF A TOWN MANAGER.

Section 6.01 Appointment and qualifications.--The council shall appoint a town manager ~~for an indefinite term and fix compensation~~. The town manager shall be appointed primarily on the basis of executive and administrative qualifications.

Section 6.02 Removal.--The council may remove the town manager for any reason by affirmative vote of at least 3 members of the council. If the vote is less than unanimous by all council members, the town manager may, within 7 days of the dismissal motion by council, submit to the mayor a written request for reconsideration. Any action taken by the council at the reconsideration hearing shall be final.

The Ballot Question shall be as follows:

Shall the Town Charter be amended to remove obsolete language and clarify that the Town Manager shall be appointed by no less than three councilmember votes?

YES ☐ NO ☐

## Referendum Item 15.

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, AMENDING THE PROCESS FOR THE ADOPTION OF TOWN ORDINANCES.

Section 10.02 Adoption of ordinances.—

(b) ~~To meet a public emergency affecting life, health, property, or the public peace, the~~ The council, as provided by a two-thirds vote of those present as required by general law, may adopt an emergency ordinance without complying with the requirements of notice expressed in the foregoing paragraph. ~~An emergency ordinance may not levy taxes; grant, renew, or extend a franchise; set service or user charges for any municipal services; or authorize the borrowing of money.~~ An emergency ordinance shall become effective upon adoption and automatically stand repealed as of the 61st day following the date on which it was adopted. This shall not prevent reenactment of such an ordinance under regular procedures.

The Ballot Question shall be as follows:

Shall the Town Charter be amended to remove unnecessary language and limitations on the scope of emergency ordinances?

YES ☐ NO ☐

**Referendum Item 16.**

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, REMOVING LIMITATIONS ON THE TOWN'S ABILITY TO ENGAGE IN LONG TERM FINANCING.

Section 11.03 Council action on the budget.—

~~(b) Unless authorized by the electors of the town at a duly held referendum election, the council shall not authorize or allow to be authorized the issuance of revenue bonds or enter into lease-purchase contracts or any other unfunded multi-year contracts all for the purchase of real property or the construction of any capital improvement, the repayment of which extends in excess of 36 months, unless mandated by state or federal governing agencies.~~

The Ballot Question shall be as follows:

The Town Charter currently limits all capital debt financing to three years unless approved by referendum. Shall the Charter be amended to allow the Town to borrow for more than three years to meet long term capital needs?

YES ☐ NO ☐

**Referendum Item 17.**

The Ballot Title shall be as follows:

**REFERENDUM AMENDING CHARTER, LOWERING THE REQUIREMENTS FOR  
RESIDENT INITIATIVES.**

Section 12.01 Initiative and referendum.--At least ~~25~~ 15 percent of the qualified electorate of the town shall have the power to petition the council to propose an ordinance or to require reconsideration of an adopted ordinance, and if the council fails to adopt such ordinance so proposed, or to repeal such adopted ordinance, without any change in substance, then the council shall place the proposed ordinance, or the repeal of the adopted ordinance, on the ballot at the next municipal election.

The Ballot Question shall be as follows:

The Town Charter currently requires the support of at least twenty-five percent of all qualified voters for resident initiatives. Shall the Charter be amended to lower this threshold to fifteen percent?

YES ☐ NO ☐

**Referendum Item 18.**

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, REMOVING THE REFERENDUM  
REQUIREMENT FOR ROAD OR BRIDGE TOLLS.

~~**Section 12.02 Tolls Referendum. — The council may impose road or bridge tolls  
only after approval by the electors, as provided by general law.**~~

The Ballot Question shall be as follows:

The Town Charter currently requires a referendum before the Council can impose either  
bridge or road tolls. Shall the Charter be amended to remove this language to reflect the  
reality that the Town does not own any toll-able bridges or roads?

YES ☐ NO ☐

**Referendum Item 19.**

The Ballot Title shall be as follows:

**REFERENDUM AMENDING CHARTER, REMOVE OBSOLETE LANGUAGE AND CLARIFY THE ROLE OF THE CHARTER REVIEW COMMISSION.**

Section 13.03 Charter review.—The charter will be reviewed ~~no later than 3 years after approval, then no later than 5 years after the initial charter review, and thereafter~~ at least every 10 years. A five-member charter review commission shall be appointed and funded by the council. The charter review commission shall be appointed at least 6 months before the next scheduled election and complete its work and present any recommendations to the Council for change no later than 60 days before the election. The council shall hold a minimum of two public hearings ~~on~~ to approve, reject or modify the proposed changes to the charter prior to placing the proposed changes on the scheduled election ballot.

The Ballot Question shall be as follows:

Shall the Town Charter be amended to remove obsolete language regarding prior Charter Review Commissions and clarifying the role of the Council in reviewing their recommendations?

YES ☐ NO ☐

## Referendum Item 20.

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, REMOVING OBSOLETE TRANSITIONAL LANGUAGE.

### Article VX: Transition

~~Section 15.03 Creation and establishment of the town of Fort Myers Beach. For the purpose of compliance with section 200.066, Florida Statutes, relating to assessment and collection of ad valorem taxes, the Town of Fort Myers Beach is hereby created and established effective December 31, 1995.~~

~~Section 15.11 Contractual services and facilities. Services for fire, police, public works, parks and recreation, planning and zoning, building inspection, development reviews, animal control, and solid waste collection may be supplied by contract between the town and county, special districts, municipalities, or private enterprise until such time as the town council establishes such independent services. Facilities for housing the newly formed municipal operations may be rented or leased until the town is in the position to obtain its own facilities.~~

~~Section 15.12 Elimination of transition elements from the charter. Upon completion of the transition phase as contained herein, those sections of the charter relating to transition shall be eliminated from the charter.~~

The Ballot Question shall be as follows:

The Town Charter currently provides for the provision of transitional elements regarding taxation and services upon the incorporation of the Town. Shall the Charter be amended to remove these obsolete provisions?

YES ☐ NO ☐

## Referendum Item 21.

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, REMOVING OBSOLETE LANGUAGE REGARDING INDEPENDENT SPECIAL DISTRICTS.

### **Article XVI: Independent Special Districts**

~~Section 16.01 It is recognized that certain services within the municipal boundaries are provided by independent special districts created by special acts of the Florida Legislature. The municipality is empowered to merge the functions of said districts with those of the municipality only upon dissolution of the special district, or upon affirmative vote of a majority of the town council and an affirmative vote of the majority of the council or board governing the district after meeting all requirements for merger or dissolution in the district's enabling legislation and chapter 189, Florida Statutes. It is recognized that certain planning and interlocal agreements may be necessary between the town and such districts and the town council shall endeavor to maximize the benefits of the districts to the fullest extent possible. In the event the town council desires to supplement or duplicate services determined to be inadequate, the council is fully empowered to do so.~~

The Ballot Question shall be as follows:

The Town Charter currently provides for the potential cooperation with local independent special districts within the boundaries of the Town. No independent special districts exist wholly within the boundaries of the Town. Shall the Charter be amended to remove this unnecessary provision?

YES [ ] NO [ ]

## Referendum Item 22.

The Ballot Title shall be as follows:

REFERENDUM AMENDING CHARTER, REMOVING CERTAIN UNNECESSARY LANGUAGE REGARDING REVENUE SHARING.

### **~~Article XVII: Revenue Sharing~~**

**~~Section 17.01 It is recognized that the services provided by independent districts within the municipal boundaries provide essential services which would customarily be provided by municipal government. It is therefore declared that the Town of Fort Myers Beach shall be eligible to participate in revenue sharing beyond the minimum entitlement in any fiscal year, provided that the town and all independent special districts created under special law, combined, levy ad valorem taxes in amounts as required by section 218.23, Florida Statutes.~~**

The Ballot Question shall be as follows:

The Town Charter currently contains language regarding eligibility for state revenue sharing based on the calculations including local special districts. This authority is already provided for by both a special act of the legislature and by general law. Shall the Charter be amended to remove this unnecessary language regarding revenue sharing?

YES ☐ NO ☐

## **RESOLUTION NO. 15-20**

**A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, PROVIDING FOR THE AMENDMENT AND REVISION OF THE TITLES AND QUESTIONS TO BE PRESENTED TO THE VOTING PUBLIC IN ACCORDANCE WITH THE PROVISIONS OF ORDINANCE 15-02, SECTION 2; AND, PROVIDING FOR DELETION OF CHARTER TEXT RELATED TO TOWN TRANSITION ISSUES.**

**WHEREAS**, the Town Council adopted Ordinance 15-02 on September 21, 2015, upon the recommendation of the Charter Review Commission, for the purpose of submitting amendments and revisions to the Town of Fort Myers Beach Charter to a referendum vote; and

**WHEREAS**, Section 2 of Ordinance 15-02 provides that the Town Council the right to adopt a resolution amending the ballot titles and questions to clarify the intent of the provisions for the voting public; and

**WHEREAS**, the Town Council has determined it is appropriate to revise the order of the referendum questions and amend a number of the titles and questions to provide greater clarity and understanding for the voting public as set forth in attached Exhibit A; and

**WHEREAS**, Ordinance 15-02 also proposes the elimination of Charter text related solely to Town transition issues, as identified in attached Exhibit B.

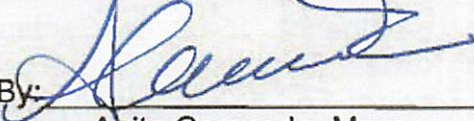
**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

1. The above recitals are true and correct and incorporated herein as though fully set forth below.
2. Exhibit A is hereby adopted, consistent with Ordinance 15-02, Section 2, to provide a revised order for the presentation of the referendum questions and to clarify the questions and titles to be submitted to the voting public.
3. Exhibit B, which identifies non-referendum amendments to the Charter related to Town transition issues, is hereby adopted. Charter Section 15.12 allows the elimination of transition elements from the Charter without the requirement for referendum approval.

The foregoing Resolution was adopted by the Town Council on the motion of Council Member Hosafros, seconded by Council Member Stockton, and upon being put to a vote, the results were as follows:

|                       |     |
|-----------------------|-----|
| Anita Cereceda, Mayor | Aye |
| Dan Andre, Vice-Mayor | Aye |
| Rexann Hosafros       | Aye |
| Alana Mandel          | Aye |
| Summer Stockton       | Aye |

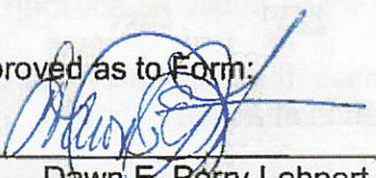
**DULY PASSED AND ADOPTED** this 16<sup>th</sup> day of November, 2015.

By:   
Anita Cereceda, Mayor

ATTEST:

By:   
Amy Baker  
Deputy Town Clerk

Approved as to Form:

By:   
Dawn E. Perry-Lehnert  
Town Attorney

**EXHIBIT A  
(21 Ballot Referendum Questions)**

**REFERENDUM # 1  
Sec. 11.03**

**TITLE:** REMOVING LIMITATIONS ON THE TOWN'S ABILITY TO ENGAGE IN LONG TERM FINANCING

**SUMMARY:** This amendment will allow the Town to borrow the funds necessary to meet long term capital improvement funding needs in accordance with the Town's Debt Management Policy.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:**    ☐ Yes for approval  
                  ☐ No against approval

**TEXT:**        **Sec. 11.03. Council action on the budget.**

~~(a) Unless authorized by the electors of the town at a duly held referendum election, the council shall not authorize or allow to be authorized the issuance of revenue bonds or enter into lease purchase contracts or any other unfunded multi-year contracts all for the purchase of real property or the construction of any capital improvement, the repayment of which extends in excess of 36 months, unless mandated by state or federal governing agencies.~~

**REFERENDUM # 2**  
**Sec. 12.01**

**TITLE:** LOWERING THE REQUIREMENTS FOR RESIDENT INITIATIVES

**SUMMARY:** This amendment will lower the threshold percentage for resident initiatives to be presented to the Town Council regarding adoption of an ordinances affecting the Town from 25% to 15%.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** Sec. 12.01. Initiative and referendum.

At least ~~25~~ 15 percent of the qualified electorate of the town shall have the power to petition the council to propose an ordinance or to require reconsideration of an adopted ordinance, and if the council fails to adopt such ordinance so proposed, or to repeal such adopted ordinance, without any change in substance, then the council shall place the proposed ordinance, or the repeal of the adopted ordinance, on the ballot at the next municipal election.

**REFERENDUM # 3**  
**Sec. 4.13**

**TITLE:** REQUIRING THREE AFFIRMATIVE COUNCIL MEMBER VOTES TO TAKE OFFICIAL ACTION

**SUMMARY:** The Charter currently allows an official action to be adopted upon the affirmative vote of only two members in the event of a voting conflict or absentee member. This amendment will require that all official actions, except in the case of emergencies, will require an affirmative vote of at least three members.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** Sec. 4.13. Voting; quorum.

Roll call voting shall be required for ordinances or upon the specific request of a council member and shall be recorded in the minutes; otherwise, voting shall be by ayes and nays. Three members of the council shall constitute a quorum. No action of the council shall be valid or binding unless adopted by the affirmative vote of ~~a majority of the~~ at least 3 members of council, except in an emergency situation. All council members in attendance shall vote on all council actions, except when, with respect to any such member, there is, or appears to be, a possible conflict of interest as defined under general law.

**REFERENDUM # 4**  
**Sec. 5.03**

**TITLE:** EXTENDING COUNCIL MEMBER TERMS OF OFFICE FROM THREE TO FOUR YEARS

**SUMMARY:** This amendment will change the council member terms of service from three years to four years, with elections being held in odd number years. Seats #1, and #2 will initially be for a term from March 2016 to March 2019.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** Sec. 5.03. Terms of Office.

The terms for all council seats, #1, #2, #3, #4, and #5, shall be for 3 4 years with elections held every other year ending in an odd number. Seats #1 and #2 shall initially be for a term from March 2016 to March 2019. ~~except during the transition period, seats #1 and #2 shall initially be for a term from November, 2000 to March, 2005.~~

**REFERENDUM # 5**  
**Sec. 5.03**

**TITLE:** ELIMINATING TERM LIMITS

**SUMMARY:** This amendment will allow elected council members to serve more than two full consecutive terms; and, eliminates term limits.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** Sec. 5.03. Terms of office.

~~No member of the council shall serve for more than two consecutive full terms. After one year out of office, a candidate may re-qualify for any vacant seat.~~

**REFERENDUM # 6**

**Sec. 5.09**

**TITLE:** ESTABLISHING A TOWN CANVASSING BOARD

**SUMMARY:** This amendment will create a Town Canvassing Board. At the close of any Town election, the Town Canvassing Board will review the votes on file with the Supervisor of Elections and certify the total number of votes taken.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** **Sec. 5.09. Town canvassing board.**

The town canvassing board shall be composed of a Town Council Member, selected by Town Council, who is not a candidate for reelection, the Town Manager and the Town Clerk, who shall act as chairperson. At the close of polls of any town election, or as soon thereafter as practicable, the canvassing board shall meet at a time and place designated by the chairperson and shall proceed to publicly canvass the vote as shown by the returns then on file in the Office of the Supervisor of Elections. The Board shall prepare and sign a certificate containing the total number of votes cast for each person or other measure voted on. The certificate shall be placed on file with the Town Clerk.

**REFERENDUM # 7**  
**Sec. 4.05**

**TITLE:** SETTING COUNCIL MEMBER SALARIES AND METHOD FOR ADJUSTMENT

**SUMMARY:** This amendment establishes a specific annual salary for the mayor and council members, effective April 1, 2016, and provides a method for annual adjustment.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** Sec. 4.05. Compensation.

- (a) ~~An ordinance establishing, increasing, or decreasing compensation of the council may be adopted at any time; however, in no event shall any establishment of compensation or any increase in compensation become effective prior to the first day of the first month following the first regular election of the town subsequent to the adoption of such ordinance.~~ Effective April 1, 2016, base pay for the Mayor will be \$19,200 annually and Council Members will be \$16,800 annually as compensation for their services. Compensation shall be revised annually based on across-the-board adjustments budgeted for staff and administered at the same time as Town employees.

## **REFERENDUM # 8**

**TITLE:** CLARIFYING THE DATE MAYOR AND VICE MAYOR ARE SELECTED

**SUMMARY:** This amendment clarifies that the selection of the council members to serve as mayor and vice mayor will occur at the first meeting following the second Tuesday in March.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** **Sec. 4.02. Mayor.**

~~At the first regularly scheduled meeting following the town's regular election meeting after the second Tuesday in March,~~ the council, by majority vote, shall elect from its membership a mayor. The mayor shall serve as chairperson during meetings of the council and shall serve as the head of municipal government for the purpose of execution of legal documents as required by ordinance. The mayor shall also serve as the ceremonial head of the town.

**Sec. 4.03. Vice mayor.**

~~At the first regularly scheduled meeting following the town's regular election meeting after the second Tuesday in March,~~ the council, by a majority vote, shall elect from among its membership a vice mayor who shall serve as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become interim mayor pursuant to section 4.08 of this charter.

**REFERENDUM # 9**  
**Sec. 4.07**

**TITLE:** CLARIFYING THE TERMS OF FORFEITURE OF OFFICE

**SUMMARY:** This amendment clarifies that a council member may forfeit elected office for failure to attend three consecutive regularly scheduled council meetings without an excused absence, or failure to maintain a permanent residence in the Town of Fort Myers Beach.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** Sec. 4.07. Forfeiture of office.

A member of the council may forfeit the office, if the member:

- (d) Misses three consecutive regularly scheduled council meetings without an excused absence.
- (e) Does not maintain a permanent residence in the Town of Fort Myers Beach.

**REFERENDUM # 10**  
**Sec. 10.02**

**TITLE:** AMENDING AND CLARIFYING THE PROCESS FOR THE ADOPTION OF  
EMERGENCY TOWN ORDINANCES

**SUMMARY:** This amendment eliminates unnecessary restraints on the Town Council to enact ordinances under emergency conditions. Emergency ordinances adopted by Council will automatically be repealed 61 days after adoption.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** Sec. 10.02. Adoption of ordinances.

(b) ~~To meet a public emergency affecting life, health, property, or the public peace, the~~ The council, as provided ~~by a two-thirds vote of those present as required by general law,~~ may adopt an emergency ordinance without complying with the requirements of notice expressed in the foregoing paragraph. ~~An emergency ordinance may not levy taxes; grant, renew, or extend a franchise; set service or user charges for any municipal services; or authorize the borrowing of money.~~ An emergency ordinance shall become effective upon adoption and automatically stand repealed as of the 61st day following the date on which it was adopted. This shall not prevent reenactment of such an ordinance under regular procedures.

**REFERENDUM # 11**  
**Sec. 13.03**

**TITLE:** CLARIFY THE PROCESS OF COUNCIL ACTION IN RESPONSE TO RECOMMENDATION OF THE CHARTER REVIEW COMMISSION

**SUMMARY:** This amendment removes obsolete language regarding the timing of charter review, which will be conducted every 10 years. It clarifies that Council action with respect to Charter Review Commission recommendations includes the authority to accept, reject or modify the proposed changes after two public hearings.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** Sec. 13.03. Charter review.

The charter will be reviewed ~~no later than 3 years after approval, then no later than 5 years after the initial charter review, and thereafter~~ at least every 10 years. A five-member charter review commission shall be appointed and funded by the council. The charter review commission shall be appointed at least 6 months before the next scheduled election and complete its work and present any recommendations to the Council for change no later than 60 days before the election. The council shall hold a minimum of two public hearings ~~on~~ to approve, reject or modify the proposed changes to the charter prior to placing the proposed changes on the scheduled election ballot.

**REFERENDUM # 12**  
**Sec. 4.04**

**TITLE:** ESTABLISHING THAT VIOLATIONS OF THE CHARTER'S NON-INTERFERENCE PROVISIONS CONSTITUTE GROUNDS FOR RECALL.

**SUMMARY:** The Charter provides that council members will direct improvements to operations of Town government through the Town Manager. This amendment establishes that a violation of this requirement for non-interference with Town staff will constitute grounds for a council member's recall.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** Sec. 4.04. Prohibitions.

- (a) Neither the council, nor any individual member of the council, shall in any manner dictate the employment or removal of any employee other than the town manager and town attorney. No individual member of the council shall give orders to any officer or employee of the town. Recommendations for the improvements in the town government operations shall come through the town manager, but each member of the council shall be free to discuss or recommend improvements to the town manager, and the council is free to direct the town manager to implement specific recommendations for improvement in town government operations. Violations of this Section of the Charter shall constitute malfeasance within the meaning of Section 100.361, Florida Statutes, as may be amended.

**REFERENDUM # 13**  
**SEC. 2.01**

**TITLE:** CLARIFYING THE TERRITORIAL BOUNDARIES OF THE TOWN OF FORT MYERS BEACH.

**SUMMARY:** The Town Charter currently describes its territorial waters as a corporate limit 1,000 feet offshore. This amendment will clarify that the Town boundaries include the waters within 1,000 feet of Estero Island into the Gulf of Mexico.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** Sec. 2.01. Boundaries of the Town of Fort Myers Beach.

The territorial boundaries of the Town of Fort Myers Beach upon the date of incorporation shall include the following areas situated in the County of Lee, State of Florida:

A corporate limit lying offshore from Estero Island, which line is described as follows: all that part of Lee County ~~that is located and situated within Estero Island, including a corporate limit line offshore~~ and the area within 1,000 feet in the Gulf of Mexico and 1,000 feet in the inland bays, and parallel with the shore line of said Estero Island, excluding all of San Carlos Island, Black Island and, structures exclusively attached thereto.

**REFERENDUM # 14**

**Sec. 4.12**

**TITLE:**        **UPDATING REQUIREMENTS FOR KEEPING RECORDS AND MINUTES  
OF COUNCIL MEETINGS**

**SUMMARY:** The requirement to keep a journal in addition to minutes of Council meetings is outdated and will be eliminated by this amendment. Minutes of Council meetings will be maintained in accordance with the Town Council Policies and Procedures Manual.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:**    ☐ Yes for approval  
                 ☐ No against approval

**TEXT:**        **Sec. 4.12. Rules and journal.**

The council shall determine its own rules and order of business and shall provide for keeping a journal and minutes of its proceedings. The journal and minutes shall be public records. The Town Council shall maintain a Policies and Procedures Manual that provides guidelines for how it will operate.

**REFERENDUM # 15**  
**Sec. 4.08**

**TITLE:** CLARIFYING THE LANGUAGE REGARDING THE FILLING OF COUNCIL MEMBER VACANCIES

**SUMMARY:** This amendment deletes unnecessary language relating to the filling of council vacancies and establishes a gender neutral statement.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** Section 4.08 Filling of vacancies.--A vacancy on the council, except for the position of mayor, shall be filled by appointment by majority vote of the council members remaining, and said appointment shall be effective until a successor is chosen at the next regular election. In the event that a majority of the members ~~of the council~~ are removed by death, disability, law, or forfeiture of office, the governor shall appoint an interim council that shall call a special election to be held within 45 days following the occurrence of the vacancies to elect a new council. In the event that the mayor becomes unable to fulfill the duties of his office, ceases to be qualified, or is removed from office as provided by law or this charter, the vice mayor ~~of the council~~ shall assume the full powers and duties of the mayor. The vice mayor ~~of the council shall temporarily relinquish his office as council member and shall~~ assume the office of mayor for the remainder of the unexpired term. The council vacancy thus created shall be filled by an interim appointment under the provisions of this charter, to be effective only until such time as the mayor resumes his office or until the expiration of the term of the office, whichever occurs first.

**REFERENDUM # 16**

**Sec. 4.11**

**TITLE:** CLARIFYING THAT RESONABLE NOTICE WILL BE PROVIDED FOR ALL MEETINGS

**SUMMARY:** The Town Charter currently requires at least 24 hours notice for all Council meetings. This amendment will delete the 24-hour timeframe and require reasonable notice for all meetings.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** Section 4.11 Meetings.--The council shall meet regularly at least eight times per year and shall meet no less often than bimonthly at such times and locations within the boundaries of the town as the council may prescribe. Special meetings may be held on the call of the mayor or the town manager and, ~~whenever practical, upon no less than a 24-hour notice~~ with reasonable 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. A special meeting may be held outside the town with ~~proper notice~~ with reasonable notice. All meetings shall be public and shall be scheduled to commence no earlier than 7 a.m. nor later than 10 p.m.

**REFERENDUM # 17**

**Sec. 6.02**

**TITLE:** CLARIFYING COUNCIL VOTE TO REMOVE TOWN MANAGER

**SUMMARY:** This amendment clarifies that removal of the Town Manager requires an affirmative vote of at least three Council members.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** Sec. 6.02. Removal.

The council may remove the town manager for any reason by affirmative vote of at least 3 members of the council. If the vote is less than unanimous by all council members, the town manager may, within 7 days of the dismissal motion by council, submit to the mayor a written request for reconsideration. Any action taken by the council at the reconsideration hearing shall be final.

**REFERENDUM # 18**  
**Sec. 6.01**

**TITLE:** CLARIFYING THE TERMS OF THE TOWN MANAGER'S APPOINTMENT

**SUMMARY:** This amendment removes the requirement that Town Council appoint a Town Manager for an indefinite term.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** Sec. 6.01. Appointment and qualifications.

The council shall appoint a town manager ~~for an indefinite term and fix compensation.~~ The town manager shall be appointed primarily on the basis of executive and administrative qualifications.

**REFERENDUM # 19**  
**Sec. 12.02**

**TITLE:** REMMOVING THE REFRENDUM REQUIREMENT FOR ROAD AND  
BRIDGE TOLLS

**SUMMARY:** This amendment deletes the requirement for a referendum vote before the Council can impose bridge or road tolls. Amendment will reflect the reality that the Town does not own any toll-able bridges or roads.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** ~~Sec. 12.02. Tolls Referendum.~~

~~The council may impose road or bridge tolls only after approval by the electors, as provided by general law.~~

**REFERENDUM # 20**  
**Sec. 16.01**

**TITLE:** REMOVING OBSOLETE LANGUAGE REGARDING INDEPENDENT SPECIAL DISTRICTS

**SUMMARY:** This amendment is necessary to clean up the charter. It will eliminate provisions applicable to local independent special districts within the boundaries of the Town. No independent special districts exist wholly within the boundaries of the Town.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** ~~Article XVI. Independent Special Districts.~~

~~Sec. 16.01. [Dissolution procedure; interlocal agreements between town and districts.]~~

~~It is recognized that certain services within the municipal boundaries are provided by independent special districts created by special acts of the Florida Legislature. The municipality is empowered to merge the functions of said districts with those of the municipality only upon dissolution of the special district, or upon affirmative vote of a majority of the town council and an affirmative vote of the majority of the council or board governing the district after meeting all requirements for merger or dissolution in the district's enabling legislation and chapter 189, Florida Statutes. It is recognized that certain planning and interlocal agreements may be necessary between the town and such districts and the town council shall endeavor to maximize the benefits of the districts to the fullest extent possible. In the event the town council desires to supplement or duplicate services determined to be inadequate, the council is fully empowered to do so.~~

**REFERENDUM # 21**  
**Sec. 17.01**

**TITLE:** REMOVING UNNECESSARY LANGAUGE REGARDING REVENUE SHARING

**SUMMARY:** This amendment is necessary to clean up the Charter. The Town Charter currently contains language regarding eligibility for state revenue sharing based on the calculations including local special districts. This authority is already provided for by both a special act of the legislature and by general law.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No against approval

**TEXT:** ~~Article XVII. Revenue Sharing.~~

~~Sec. 17.01. [Town eligibility; procedure.]~~

~~It is recognized that the services provided by independent districts within the municipal boundaries provide essential services which would customarily be provided by municipal government. It is therefore declared that the Town of Fort Myers Beach shall be eligible to participate in revenue sharing beyond the minimum entitlement in any fiscal year, provided that the town and all independent special districts created under special law, combined, levy ad valorem taxes in amounts as required by section 218.23, Florida Statutes.~~

**EXHIBIT B**  
**(Non-referendum Charter Amendments to Remove Transitional Provisions)**

**Sec. 4.01. Council members; elections.**

(a) There shall be a town council, hereinafter referred to as the council, with all legislative powers of the town vested therein, consisting of five council members, all of whom shall be elected from the town at-large, ~~for the initial election. The council shall place the matter of a change in the charter regarding at-large or district elections for council members to a vote of the electorate no later than 2 years after formation of the municipality with public hearings as to said matter as required under section 13.03 hereof.~~

(b) Council seats shall be designated as seats #1, #2, #3, #4, and #5. ~~Candidates shall not seek election to a specific seat on council.~~ All qualified candidates shall be deemed to be seeking election to all open council seats. Assignment of open seat numbers shall be alphabetically by incoming Council members' last names.

**Article ~~VX~~: TRANSITION**

~~Sec. 15.03. Creation and establishment of the Town of Fort Myers Beach. For the purpose of compliance with section 200.066, Florida Statutes, relating to assessment and collection of ad valorem taxes, the Town of Fort Myers Beach is hereby created and established effective December 31, 1995.~~

~~Sec. 15.11. Contractual services and facilities. Services for fire, police, public works, parks and recreation, planning and zoning, building inspection, development reviews, animal control, and solid waste collection may be supplied by contract between the town and county, special districts, municipalities, or private enterprise until such time as the town council establishes such independent services. Facilities for housing the newly formed municipal operation may be rented or leased until the town is in the position to obtain its own facilities.~~

~~Sec. 15.12. Elimination of transition elements from the charter. Upon completion of the transition phase as contained herein, those sections of the charter relating to transition shall be eliminated from the charter.~~

**RESOLUTION NUMBER 16-13**

**A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA,  
CERTIFYING THE RESULTS OF THE REFERENDA HELD ON MARCH  
15, 2016 REGARDING CHARTER AMENDMENTS AS SET FORTH IN  
ORDINANCE 15-02; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII, Section 2 of the State Constitution 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 Fort Myers Beach Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

**WHEREAS**, Section 13.01 of Article XII of the Town Charter provides that the Council may, by ordinance, propose amendments to the Charter to be submitted to the electors, as provided by general law; and

**WHEREAS**, the Town Council adopted Ordinance 15-02 pertaining to proposed Charter amendments and submitted the proposed amendments as referendum questions to the qualified electors of the Town on March 15, 2016, in accordance with all applicable laws.

**IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH, FLORIDA AS FOLLOWS:**

**Section One. Recitals.** The above recitals are true and correct and incorporated herein as though fully set forth below.

**Section Two. Certification of Results of Election.** It is hereby certified that the appropriate election officials have canvassed the ballots and certified same to the Lee County Supervisor of Elections and the Supervisor has in turn, certified the election results to the Town Council of the Town of Fort Myers Beach, Florida.

**Section Three. Referendum Questions.**

**The referendum questions on the March 15, 2016 election ballot are set forth in attached Exhibit "A".**

**Section Four. Vote Tabulation for Referendum.**  
Referendum question are as follows:

The votes received for this

|                |             |        |
|----------------|-------------|--------|
| Referendum #1  |             |        |
| Yes            | Percentage: | 51.70% |
| No             | Percentage: | 48.30% |
| Referendum #2  |             |        |
| Yes            | Percentage: | 45.64% |
| No             | Percentage: | 54.36% |
| Referendum #3  |             |        |
| Yes            | Percentage: | 88.01% |
| No             | Percentage: | 11.99% |
| Referendum #4  |             |        |
| Yes            | Percentage: | 39.01% |
| No             | Percentage: | 60.99% |
| Referendum #5  |             |        |
| Yes            | Percentage: | 16.89% |
| No             | Percentage: | 83.11% |
| Referendum #6  |             |        |
| Yes            | Percentage: | 70.38% |
| No             | Percentage: | 29.62% |
| Referendum #7  |             |        |
| Yes            | Percentage: | 53.71% |
| No             | Percentage: | 46.29% |
| Referendum #8  |             |        |
| Yes            | Percentage: | 89.20% |
| No             | Percentage: | 10.80% |
| Referendum #9  |             |        |
| Yes            | Percentage: | 92.20% |
| No             | Percentage: | 7.80%  |
| Referendum #10 |             |        |
| Yes            | Percentage: | 73.91% |
| No             | Percentage: | 26.09% |
| Referendum #11 |             |        |
| Yes            | Percentage: | 77.03% |
| No             | Percentage: | 22.97% |
| Referendum #12 |             |        |
| Yes            | Percentage: | 78.51% |
| No             | Percentage: | 21.49% |
| Referendum #13 |             |        |
| Yes            | Percentage: | 84.01% |
| No             | Percentage: | 15.99% |
| Referendum #14 |             |        |
| Yes            | Percentage: | 79.17% |
| No             | Percentage: | 20.83% |
| Referendum #15 |             |        |
| Yes            | Percentage: | 84.14% |
| No             | Percentage: | 15.86% |
| Referendum #16 |             |        |
| Yes            | Percentage: | 50.83% |
| No             | Percentage: | 49.17% |

|                |             |        |
|----------------|-------------|--------|
| Referendum #17 |             |        |
| Yes            | Percentage: | 89.94% |
| No             | Percentage: | 11.06% |
| Referendum #18 |             |        |
| Yes            | Percentage: | 66.73% |
| No             | Percentage: | 33.27% |
| Referendum #19 |             |        |
| Yes            | Percentage: | 50.98% |
| No             | Percentage: | 49.02% |
| Referendum #20 |             |        |
| Yes            | Percentage: | 76.89% |
| No             | Percentage: | 23.11% |
| Referendum #21 |             |        |
| Yes            | Percentage: | 79.88% |
| No             | Percentage: | 20.12% |

**Section Five. Effective Date.** This Resolution takes effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach, Florida.

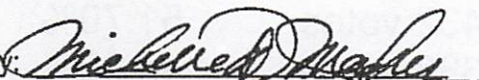
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon motion by Councilmember Hosafros and seconded by Vice Mayor Stockton, and being put to a vote, the result was as follows:

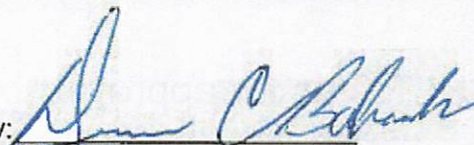
|                                |        |                                 |     |
|--------------------------------|--------|---------------------------------|-----|
| Dennis C. Boback, Mayor        | aye    | Summer Stockton, Vice Mayor     | aye |
| Anita Cereceda, Council Member | absent | Rexann Hosafros, Council Member | aye |
| Tracey Gore, Council Member    | aye    |                                 |     |

APPROVED THIS 4<sup>th</sup> DAY OF APRIL, 2016.

ATTEST:

TOWN OF FORT MYERS BEACH

By:   
Michelle D. Mayher, Town Clerk

By:   
Dennis C. Boback, Mayor

Approved as to legal sufficiency and form by:

  
Dawn E. Perry-Lehnert, Town Attorney

**EXHIBIT A  
(21 Ballot Referendum Questions)**

**REFERENDUM # 1  
Sec. 11.03**

**TITLE:** REMOVING LIMITATIONS ON THE TOWN'S ABILITY TO  
ENGAGE IN LONG TERM FINANCING

**SUMMARY:** This amendment will allow the Town to borrow the funds necessary to meet long term capital improvement funding needs in accordance with the Town's Debt Management Policy.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:**    ☐ Yes for approval  
                  ☐ No, for rejection

**TEXT:**        Sec. 11.03. Council action on the budget.

~~(a) Unless authorized by the electors of the town at a duly held referendum election, the council shall not authorize or allow to be authorized the issuance of revenue bonds or enter into lease purchase contracts or any other unfunded multi-year contracts all for the purchase of real property or the construction of any capital improvement, the repayment of which extends in excess of 36 months, unless mandated by state or federal governing agencies.~~

|                          |             |        |
|--------------------------|-------------|--------|
| RESULT: Yes for approval | 1,432 votes | 51.70% |
| No, for rejection        | 1,338 votes | 48.30% |

**REFERENDUM # 2**  
**Sec. 12.01**

**TITLE:** LOWERING THE REQUIREMENTS FOR RESIDENT INITIATIVES

**SUMMARY:** This amendment will lower the threshold percentage for resident initiatives to be presented to the Town Council regarding adoption of an ordinance affecting the Town from 25% to 15%.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** Sec. 12.01. Initiative and referendum.

At least ~~25~~ 15 percent of the qualified electorate of the town shall have the power to petition the council to propose an ordinance or to require reconsideration of an adopted ordinance, and if the council fails to adopt such ordinance so proposed, or to repeal such adopted ordinance, without any change in substance, then the council shall place the proposed ordinance, or the repeal of the adopted ordinance, on the ballot at the next municipal election.

|                                 |             |        |
|---------------------------------|-------------|--------|
| <b>RESULT:</b> Yes for approval | 1,226 votes | 45.64% |
| No, for rejection               | 1,460 votes | 54.36% |

**REFERENDUM # 3**  
**Sec. 4.13**

**TITLE:** REQUIRING THREE AFFIRMATIVE COUNCIL MEMBER VOTES  
TO TAKE OFFICAL ACTION

**SUMMARY:** The Charter currently allows an official action to be adopted upon the affirmative vote of only two members in the event of a voting conflict or absentee member. This amendment will require that all official actions, except in the case of emergencies, will require an affirmative vote of at least three members.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** Sec. 4.13. Voting; quorum.

Roll call voting shall be required for ordinances or upon the specific request of a council member and shall be recorded in the minutes; otherwise, voting shall be by ayes and nays. Three members of the council shall constitute a quorum. No action of the council shall be valid or binding unless adopted by the affirmative vote of ~~a majority of the~~ at least 3 members of council, except in an emergency situation. All council members in attendance shall vote on all council actions, except when, with respect to any such member, there is, or appears to be, a possible conflict of interest as defined under general law.

|                          |             |        |
|--------------------------|-------------|--------|
| RESULT: Yes for approval | 2,423 votes | 88.01% |
| No, for rejection        | 330 votes   | 11.99% |

**REFERENDUM # 4**  
**Sec. 5.03**

**TITLE:** EXTENDING COUNCIL MEMBER TERMS OF OFFICE FROM THREE TO FOUR YEARS

**SUMMARY:** This amendment will change the council member terms of service from three years to four years, with elections being held in odd number years. Seats #1, and #2 will initially be for a term from March 2016 to March 2019.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** Sec. 5.03. Terms of Office.

The terms for all council seats, #1, #2, #3, #4, and #5, shall be for 3 4 years with elections held every other year ending in an odd number. Seats #1 and #2 shall initially be for a term from March 2016 to March 2019. ~~except during the transition period, seats #1 and #2 shall initially be for a term from November, 2000 to March, 2005.~~

|                          |             |         |
|--------------------------|-------------|---------|
| RESULT: Yes for approval | 1,084 votes | 39.01 % |
| No, for rejection        | 1,695 votes | 60.99%  |

**REFERENDUM # 5**  
**Sec. 5.03**

**TITLE:** ELIMINATING TERM LIMITS

**SUMMARY:** This amendment will allow elected council members to serve more than two full consecutive terms; and, eliminates term limits.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** **Sec. 5.03. Terms of office.**

~~No member of council shall serve for more than two consecutive full terms. After one year out of office, a candidate may qualify for any vacant seat.~~

|                          |             |        |
|--------------------------|-------------|--------|
| RESULT: Yes for approval | 462 votes   | 16.89% |
| No, for rejection        | 2,273 votes | 83.11% |

**REFERENDUM # 6**

**Sec. 5.09**

**TITLE:** ESTABLISHING A TOWN CANVASSING BOARD

**SUMMARY:** This amendment will create a Town Canvassing Board. At the close of any Town election, the Town Canvassing Board will review the votes on file with the Supervisor of Elections and certify the total number of votes taken.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** Sec. 5.09. Town canvassing board.

The town canvassing board shall be composed of a Town Council Member, selected by Town Council, who is not a candidate for reelection, the Town Manager and the Town Clerk, who shall act as chairperson. At the close of polls of any town election, or as soon thereafter as practicable, the canvassing board shall meet at a time and place designated by the chairperson and shall proceed to publicly canvass the vote as shown by the returns then on file in the Office of the Supervisor of Elections. The Board shall prepare and sign a certificate containing the total number of votes cast for each person or other measure voted on. The certificate shall be placed on file with the Town Clerk.

|                                 |             |        |
|---------------------------------|-------------|--------|
| <b>RESULT:</b> Yes for approval | 1,853 votes | 70.38% |
| No, for rejection               | 780 votes   | 29.62% |

**REFERENDUM # 7**  
**Sec. 4.05**

**TITLE:** SETTING COUNCIL MEMBER SALARIES AND METHOD FOR ADJUSTMENT

**SUMMARY:** This amendment establishes a specific annual salary for the mayor and council members, effective April 1, 2016, and provides a method for annual adjustment.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** **Sec. 4.05. Compensation.**

(a) ~~An ordinance establishing, increasing, or decreasing compensation of the council may be adopted at any time; however, in no event shall any establishment of compensation or any increase in compensation become effective prior to the first day of the first month following the first regular election of the town subsequent to the adoption of such ordinance.~~ Effective April 1, 2016, base pay for the Mayor will be \$19,200 annually and Council Members will be \$16,800 annually as compensation for their services. Compensation shall be revised annually based on across-the-board adjustments budgeted for staff and administered at the same time as Town employees.

|                          |             |        |
|--------------------------|-------------|--------|
| RESULT: Yes for approval | 1,426 votes | 53.71% |
| No, for rejection        | 1,229 votes | 46.29% |

## REFERENDUM # 8

### TITLE: CLARIFYING THE DATE MAYOR AND VICE MAYOR ARE SELECTED

**SUMMARY:** This amendment clarifies that the selection of the council members to serve as mayor and vice mayor will occur at the first meeting following the second Tuesday in March.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:**     ☐ Yes for approval  
                  ☐ No, for rejection

**TEXT:**        **Sec. 4.02. Mayor.**

At the first ~~regularly scheduled meeting following the town's regular election meeting after the second Tuesday in March~~, the council, by majority vote, shall elect from its membership a mayor. The mayor shall serve as chairperson during meetings of the council and shall serve as the head of municipal government for the purpose of execution of legal documents as required by ordinance. The mayor shall also serve as the ceremonial head of the town.

**Sec. 4.03. Vice mayor.**

At the first ~~regularly scheduled meeting following the town's regular election meeting after the second Tuesday in March~~, the council, by a majority vote, shall elect from among its membership a vice mayor who shall serve as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become interim mayor pursuant to section 4.08 of this charter.

|                          |             |        |
|--------------------------|-------------|--------|
| RESULT: Yes for approval | 2,355 votes | 89.20% |
| No, for rejection        | 285 votes   | 10.80% |

**REFERENDUM # 9**  
**Sec. 4.07**

**TITLE:** CLARIFYING THE TERMS OF FORFEITURE OF OFFICE

**SUMMARY:** This amendment clarifies that a council member may forfeit elected office for failure to attend three consecutive regularly scheduled council meetings without an excused absence, or failure to maintain a permanent residence in the Town of Fort Myers Beach.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** **Sec. 4.07. Forfeiture of office.**

A member of the council may forfeit the office, if the member:

(d) Misses three consecutive regularly scheduled council meetings without an excused absence.

(e) Does not maintain a permanent residence in the Town of Fort Myers Beach.

|                          |             |        |
|--------------------------|-------------|--------|
| RESULT: Yes for approval | 2,459 votes | 92.20% |
| No, for rejection        | 208 votes   | 7.80%  |

**REFERENDUM # 10**  
**Sec. 10.02**

**TITLE:** AMENDING AND CLARIFYING THE PROCESS FOR THE ADOPTION OF EMERGENCY TOWN ORDINANCES

**SUMMARY:** This amendment eliminates unnecessary restraints on the Town Council to enact ordinances under emergency conditions. Emergency ordinances adopted by Council will automatically be repealed 61 days after adoption.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** Sec. 10.02. Adoption of ordinances.

(b) ~~To meet a public emergency affecting life, health, property, or the public peace, the~~ The council, as provided ~~by a two-thirds vote of those present as required by general law,~~ may adopt an emergency ordinance without complying with the requirements of notice expressed in the foregoing paragraph. ~~An emergency ordinance may not levy taxes; grant, renew, or extend a franchise; set service or user charges for any municipal services; or authorize the borrowing of money.~~ An emergency ordinance shall become effective upon adoption and automatically stand repealed as of the 61st day following the date on which it was adopted. This shall not prevent reenactment of such an ordinance under regular procedures.

|                          |             |        |
|--------------------------|-------------|--------|
| RESULT: Yes for approval | 1,946 votes | 73.91% |
| No, for rejection        | 687 votes   | 26.09% |

**REFERENDUM # 11**  
**Sec. 13.03**

**TITLE:** CLARIFY THE PROCESS OF COUNCIL ACTION IN RESPONSE  
TO RECOMMENDATION OF THE CHARTER REVIEW  
COMMISSION

**SUMMARY:** This amendment removes obsolete language regarding the timing of charter review, which will be conducted every 10 years. It clarifies that Council action with respect to Charter Review Commission recommendations includes the authority to accept, reject or modify the proposed changes after two public hearings.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** Sec. 13.03. Charter review.

The charter will be reviewed ~~no later than 3 years after approval, then no later than 5 years after the initial charter review, and thereafter~~ at least every 10 years. A five-member charter review commission shall be appointed and funded by the council. The charter review commission shall be appointed at least 6 months before the next scheduled election and complete its work and present any recommendations to the Council for change no later than 60 days before the election. The council shall hold a minimum of two public hearings on to approve, reject or modify the proposed changes to the charter prior to placing the proposed changes on the scheduled election ballot.

|                          |             |        |
|--------------------------|-------------|--------|
| RESULT: Yes for approval | 2,005 votes | 77.03% |
| No, for rejection        | 598 votes   | 22.97% |

**REFERENDUM # 12**  
**Sec. 4.04**

**TITLE:** ESTABLISHING THAT VIOLATIONS OF THE CHARTER'S NON-INTERFERENCE PROVISIONS CONSTITUTE GROUNDS FOR RECALL.

**SUMMARY:** The Charter provides that council members will direct improvements to operations of Town government through the Town Manager. This amendment establishes that a violation of this requirement for non-interference with Town staff will constitute grounds for a council member's recall.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** Sec. 4.04. Prohibitions.

(a) Neither the council, nor any individual member of the council, shall in any manner dictate the employment or removal of any employee other than the town manager and town attorney. No individual member of the council shall give orders to any officer or employee of the town. Recommendations for the improvements in the town government operations shall come through the town manager, but each member of the council shall be free to discuss or recommend improvements to the town manager, and the council is free to direct the town manager to implement specific recommendations for improvement in town government operations. Violations of this Section of the Charter shall constitute malfeasance within the meaning of Section 100.361, Florida Statutes, as may be amended.

|                          |             |        |
|--------------------------|-------------|--------|
| RESULT: Yes for approval | 2,042 votes | 78.51% |
| No, for rejection        | 559 votes   | 21.49% |

**REFERENDUM # 13**  
**SEC. 2.01**

**TITLE:** CLARIFYING THE TERRITORIAL BOUNDARIES OF THE TOWN OF FORT MYERS BEACH.

**SUMMARY:** The Town Charter currently describes its territorial waters as a corporate limit 1,000 feet offshore. This amendment will clarify that the Town boundaries include the waters within 1,000 feet of Estero Island into the Gulf of Mexico.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** **Sec. 2.01. Boundaries of the Town of Fort Myers Beach.**

The territorial boundaries of the Town of Fort Myers Beach upon the date of incorporation shall include the following areas situated in the County of Lee, State of Florida:

A corporate limit lying offshore from Estero Island, which line is described as follows: all that part of Lee County ~~that is located and situated within Estero Island, including a corporate limit line offshore~~ and the area within 1,000 feet in the Gulf of Mexico and 1,000 feet in the inland bays, and parallel with the shore line of said Estero Island, excluding all of San Carlos Island, Black Island and, structures exclusively attached thereto.

|                                 |             |        |
|---------------------------------|-------------|--------|
| <b>RESULT:</b> Yes for approval | 2,243 votes | 84.01% |
| No, for rejection               | 427 votes   | 15.99% |

**REFERENDUM # 14**  
**Sec. 4.12**

**TITLE:** UPDATING REQUIREMENTS FOR KEEPING RECORDS AND MINUTES OF COUNCIL MEETINGS

**SUMMARY:** The requirement to keep a journal in addition to minutes of Council meetings is outdated and will be eliminated by this amendment. Minutes of Council meetings will be maintained in accordance with the Town Council Policies and Procedures Manual.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** Sec. 4.12. Rules and journal.

The council shall determine its own rules and order of business and shall provide for keeping a journal and minutes of its proceedings. The journal and minutes shall be public records. The Town Council shall maintain a Policies and Procedures Manual that provides guidelines for how it will operate.

|                                 |             |        |
|---------------------------------|-------------|--------|
| <b>RESULT:</b> Yes for approval | 2,105 votes | 79.17% |
| No, for rejection               | 554 votes   | 20.83% |

**REFERENDUM # 15**

**Sec. 4.08**

**TITLE:** CLARIFYING THE LANGUAGE REGARDING THE FILLING OF COUNCIL MEMBER VACANCIES

**SUMMARY:** This amendment deletes unnecessary language relating to the filling of council vacancies and establishes a gender neutral statement.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** Section 4.08 Filling of vacancies.--A vacancy on the council, except for the position of mayor, shall be filled by appointment by majority vote of the council members remaining, and said appointment shall be effective until a successor is chosen at the next regular election. In the event that a majority of the members of the council are removed by death, disability, law, or forfeiture of office, the governor shall appoint an interim council that shall call a special election to be held within 45 days following the occurrence of the vacancies to elect a new council. In the event that the mayor becomes unable to fulfill the duties of his office, ceases to be qualified, or is removed from office as provided by law or this charter, the vice mayor of the council shall assume the full powers and duties of the mayor. The vice mayor of the council shall temporarily relinquish his office as council member and shall assume the office of mayor for the remainder of the unexpired term. The council vacancy thus created shall be filled by an interim appointment under the provisions of this charter, to be effective only until such time as the mayor resumes his office or until the expiration of the term of the office, whichever occurs first.

|                                 |             |        |
|---------------------------------|-------------|--------|
| <b>RESULT:</b> Yes for approval | 2,223 votes | 84.14% |
| No, for rejection               | 419 votes   | 15.86% |

**REFERENDUM # 16**  
**Sec. 4.11**

**TITLE:** CLARIFYING THAT REASONABLE NOTICE WILL BE PROVIDED FOR ALL MEETINGS

**SUMMARY:** The Town Charter currently requires at least 24 hours notice for all Council meetings. This amendment will delete the 24-hour timeframe and require reasonable notice for all meetings.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** **Section 4.11 Meetings.** The council shall meet regularly at least eight times per year and shall meet no less often than bimonthly at such times and locations within the boundaries of the town as the council may prescribe. Special meetings may be held on the call of the mayor or the town manager and, ~~whenever practical, upon no less than a 24-hour notice~~ with reasonable 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. A special meeting may be held outside the town with ~~proper notice~~ with reasonable notice. All meetings shall be public and shall be scheduled to commence no earlier than 7 a.m. nor later than 10 p.m.

|                                 |             |        |
|---------------------------------|-------------|--------|
| <b>RESULT:</b> Yes for approval | 1,352 votes | 50.83% |
| No, for rejection               | 1,308 votes | 49.17% |

**REFERENDUM # 17**  
**Sec. 6.02**

**TITLE:** CLARIFYING COUNCIL VOTE TO REMOVE TOWN MANAGER

**SUMMARY:** This amendment clarifies that removal of the Town Manager requires an affirmative vote of at least three Council members.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** Sec. 6.02. Removal.

The council may remove the town manager for any reason by affirmative vote of at least 3 members of the council. If the vote is less than unanimous by all council members, the town manager may, within 7 days of the dismissal motion by council, submit to the mayor a written request for reconsideration. Any action taken by the council at the reconsideration hearing shall be final.

|                          |             |        |
|--------------------------|-------------|--------|
| RESULT: Yes for approval | 2,355 votes | 88.94% |
| No, for rejection        | 293 votes   | 11.06% |

**REFERENDUM # 18**  
**Sec. 6.01**

**TITLE:** CLARIFYING THE TERMS OF THE TOWN MANAGER'S APPOINTMENT

**SUMMARY:** This amendment removes the requirement that Town Council appoint a Town Manager for an indefinite term.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** **Sec. 6.01. Appointment and qualifications.**

The council shall appoint a town manager ~~for an indefinite term and fix compensation.~~ The town manager shall be appointed primarily on the basis of executive and administrative qualifications.

|                                 |             |        |
|---------------------------------|-------------|--------|
| <b>RESULT:</b> Yes for approval | 1,721 votes | 66.73% |
| No, for rejection               | 858 votes   | 33.27% |

**REFERENDUM # 19**  
**Sec. 12.02**

**TITLE:** REMOVING THE REFERENDUM REQUIREMENT FOR ROAD AND BRIDGE TOLLS

**SUMMARY:** This amendment deletes the requirement for a referendum vote before the Council can impose bridge or road tolls. Amendment will reflect the reality that the Town does not own any toll-able bridges or roads.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** ~~Sec. 12.02. Tolls Referendum.~~

~~The council may impose road or bridge tolls only after approval by the electors, as provided by general law.~~

|                          |             |        |
|--------------------------|-------------|--------|
| RESULT: Yes for approval | 1,327 votes | 50.98% |
| No, for rejection        | 1,276 votes | 49.02% |

**REFERENDUM # 20**  
**Sec. 16.01**

**TITLE:** REMOVING OBSOLETE LANGUAGE REGARDING INDEPENDENT SPECIAL DISTRICTS

**SUMMARY:** This amendment is necessary to clean up the charter. It will eliminate provisions applicable to local independent special districts within the boundaries of the Town. No independent special districts exist wholly within the boundaries of the Town.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** ~~Article XVI. Independent Special Districts.~~

~~Sec. 16.01. [Dissolution procedure; interlocal agreements between town and districts.]~~

~~It is recognized that certain services within the municipal boundaries are provided by independent special districts created by special acts of the Florida Legislature. The municipality is empowered to merge the functions of said districts with those of the municipality only upon dissolution of the special district, or upon affirmative vote of a majority of the town council and an affirmative vote of the majority of the council or board governing the district after meeting all requirements for merger or dissolution in the district's enabling legislation and chapter 189, Florida Statutes. It is recognized that certain planning and interlocal agreements may be necessary between the town and such districts and the town council shall endeavor to maximize the benefits of the districts to the fullest extent possible. In the event the town council desires to supplement or duplicate services determined to be inadequate, the council is fully empowered to do so.~~

|                                 |             |        |
|---------------------------------|-------------|--------|
| <b>RESULT:</b> Yes for approval | 1,960 votes | 76.89% |
| No, for rejection               | 589 votes   | 23.11% |

**REFERENDUM # 21**  
**Sec. 17.01**

**TITLE:** REMOVING UNNECESSARY LANGAUGE REGARDING REVENUE SHARING

**SUMMARY:** This amendment is necessary to clean up the Charter. The Town Charter currently contains language regarding eligibility for state revenue sharing based on the calculations including local special districts. This authority is already provided for by both a special act of the legislature and by general law.

**QUESTION:** Shall the above-described amendment be adopted?

**OPTIONS:** ☐ Yes for approval  
☐ No, for rejection

**TEXT:** ~~Article XVII. Revenue Sharing.~~

~~Sec. 17.01. [Town eligibility; procedure.]~~

~~It is recognized that the services provided by independent districts within the municipal boundaries provide essential services which would customarily be provided by municipal government. It is therefore declared that the Town of Fort Myers Beach shall be eligible to participate in revenue sharing beyond the minimum entitlement in any fiscal year, provided that the town and all independent special districts created under special law, combined, levy ad valorem taxes in amounts as required by section 218.23, Florida Statutes.~~

|                                 |             |        |
|---------------------------------|-------------|--------|
| <b>RESULT:</b> Yes for approval | 2,045 votes | 79.88% |
| No, for rejection               | 515 votes   | 20.12% |

**EXHIBIT B**  
**(Non-referendum Charter Amendments to Remove Transitional Provisions)**

**Sec. 4.01. Council members; elections.**

(a) There shall be a town council, hereinafter referred to as the council, with all legislative powers of the town vested therein, consisting of five council members, all of whom shall be elected from the town at-large, ~~for the initial election. The council shall place the matter of a change in the charter regarding at large or district elections for council members to a vote of the electorate no later than 2 years after formation of the municipality with public hearings as to said matter as required under section 13.03 hereof.~~

(b) Council seats shall be designated as seats #1, #2, #3, #4, and #5. ~~Candidates shall not seek election to a specific seat on council.~~ All qualified candidates shall be deemed to be seeking election to all open council seats. Assignment of open seat numbers shall be alphabetically by incoming Council members' last names.

**Article VX: TRANSITION**

~~Sec. 15.03. Creation and establishment of the Town of Fort Myers Beach. For the purpose of compliance with section 200.066, Florida Statutes, relating to assessment and collection of ad valorem taxes, the Town of Fort Myers Beach is hereby created and established effective December 31, 1995.~~

~~Sec. 15.11. Contractual services and facilities. Services for fire, police, public works, parks and recreation, planning and zoning, building inspection, development reviews, animal control, and solid waste collection may be supplied by contract between the town and county, special districts, municipalities, or private enterprise until such time as the town council establishes such independent services. Facilities for housing the newly formed municipal operation may be rented or leased until the town is in the position to obtain its own facilities.~~

~~Sec. 15.12. Elimination of transition elements from the charter. Upon completion of the transition phase as contained herein, those sections of the charter relating to transition shall be eliminated from the charter.~~

**ORDINANCE NO. 19-08**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH CALLING AN ELECTION ON AMENDMENTS TO THE TOWN CHARTER TO BE HELD ON TUESDAY, MARCH 17, 2020; PROVIDING FOR SUBMISSION TO THE ELECTORS FOR APPROVAL OR DISAPPROVAL A PROPOSED AMENDMENT TO THE TOWN CHARTER, SUCH CHARTER AMENDMENT CONCERNING THE DATE OF TOWN ELECTIONS AND TERMS OF OFFICE SO THAT THE TOWN'S REGULAR ELECTION COINCIDES WITH FEDERAL AND STATE ELECTION DATES AND ESTABLISHING FOUR (4) YEAR TERMS OF OFFICE FOR TOWN COUNCILMEMBERS; PROVIDING FOR REQUISITE BALLOT LANGUAGE; PROVIDING FOR PROCEDURE FOR BALLOTING; PROVIDING FOR NOTICE; PROVIDING FOR RELATED MATTERS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CHARTER; AND AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Section 166.031, Florida Statutes, and following the Town of Fort Myers Beach Council's review the Town of Fort Myers Beach ("Town") has caused the final drafting and preparation of proposed amendments to the Town Charter for submission to the electors of the Town; and

**WHEREAS**, the Town Council desires to submit the proposed Charter amendments to the electors of the Town;

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

Section 1. The above recitals are true and correct and incorporated herein by this reference.

Section 2. An election is called for Tuesday, March 17, 2020, to present to the electors of the Town each of the ballot questions provided in Section 5 of this Ordinance.

Section 3. Balloting shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. at the regular polling places for Town elections or as otherwise provided by the Lee County Supervisor of Elections in accordance with applicable law. All qualified electors residing within the Town who are timely registered shall be entitled to vote. Early voting may be provided as authorized by law.

Section 4. That notice of the election shall be published in accordance with Section 100.342, *Florida Statutes*, in a newspaper of general circulation within the Town at least thirty (30) days prior to the election, the first publication to be in the fifth week prior to the election, and the second publication to be in the third week prior to the election, and shall be in substantially the following form:

## NOTICE OF ELECTION

PUBLIC NOTICE IS GIVEN THAT PURSUANT TO AN ENABLING ORDINANCE DULY ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA (THE "TOWN"), AN ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE TOWN ON TUESDAY, MARCH 17, 2020, BETWEEN THE HOURS OF 7:00 AM AND 7:00 PM, AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT PROPOSITION SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN.

There is one (1) proposed amendment to the Town Charter, which proposal is commonly referred to by the following ballot titles:

1. Election Date and Terms of Office

Polling place information, as well as the full text of the proposed Town Charter amendments and the enabling ordinance for this election are available at the Office of the Town Clerk, located at:

2525 Estero Boulevard, Fort Myers Beach, FL 33931  
Contact: Michelle Mayher, Town Clerk

The Town Clerk may combine this Notice of Election with other Notices of Election for any other Charter amendments.

Section 5. The form of ballot for each of the proposed Charter amendments shall be as follows:

Section 5. The form of ballot for each of the proposed Charter amendments shall be as follows:

1. ELECTION DATE

The Town Charter currently provides that the regular election of members of the Town Council shall be held on the second Tuesday in March. It is proposed that the Charter be amended to revise such provisions by moving the regular election of members of the Town Council to the first Tuesday after the first Monday in November, so as to coincide with federal and state election dates.

Shall the above-described Charter amendment be adopted?

Yes ☐

No ☐

## 2. TERMS OF OFFICE.

The Town Charter currently provides that each term of office for Town Councilmembers is three (3) years, with a term limit of two (2) consecutive terms (e.g., a total of six (6) consecutive years in office). It is proposed that the Charter be amended to revise such provisions by increasing the term of office to four (4) years (a one (1) year increase), with a term limit of two (2) consecutive terms (e.g., a total of eight (8) consecutive years in office). Extending the term of office by one (1) year will ensure that all regular Town Council elections coincide with federal and state election dates as set forth in proposed Charter amendment number one above.

Shall the above-described Charter amendment be adopted?

Yes    ☐

No     ☐

The order of presentation of the above listed ballot items on the ballot may be revised pursuant to Section 8, below. The ballot questions and corresponding Notice of Election may be revised by Council Resolution.

Section 6. The Town Charter is further amended by adding those provisions indicated by underline and deleting those provisions indicated by strikethrough, to read as set forth in Exhibit "A", a copy of which is attached and incorporated herein by this reference.

Section 7. That the County registration books shall remain open at the office of the Lee County Supervisor of Elections until the date which is provided by law as the date that the registration books shall close in accordance with the provisions of the general election laws.

Section 8. The Town Clerk, with any necessary assistance and services from the Lee County Supervisor of Elections, is authorized to take all appropriate actions necessary to carry into effect and accomplish the provisions of this Ordinance.

Section 9. That the election returns shall be canvassed by the Lee County Canvassing Board as required by law.

Section 10. Copies of this Ordinance are on file in the office of the Town Clerk located at 2525 Estero Boulevard, Fort Myers Beach, Florida 33931, and are available for public inspection during regular business hours.

Section 11. That if a majority of the qualified electors voting on the proposed Charter amendment vote for its adoption, it shall be considered adopted and effective upon certification of the election results. Further, to the extent the Town Attorney determines that certain of the Charter amendments provided by Section 5 above are not dependent upon voter approval under that portion of Section 166.021, *Florida Statutes*, which enables certain charter and special act

provisions which presently exist as they existed prior to the initiation of municipal Home Rule Powers in 1973 to be amended by ordinance without a requirement for referendum approval, those limited Charter amendments identified in writing by the Town Attorney shall be effective without regard to the vote of the electors and shall be included in the revised Charter.

Section 12. The Town Clerk shall file the revised Charter with the Florida Department of State.

Section 13. The Charter amendment, if adopted by the electors shall be applied prospectively only unless otherwise stated by the Charter text.

Section 14. That in the event that the provisions of this Ordinance conflict with any other Town Ordinance, the provisions of this Ordinance – if stricter - shall prevail to the extent of any such conflict.

Section 15. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 16. Subject to the requirements of Section 11 above, it is the intention of the Town Council and it is ordained that the provisions of this Ordinance shall become and made a part of the Charter of the Town of Fort Myers Beach; that the sections of this Charter may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

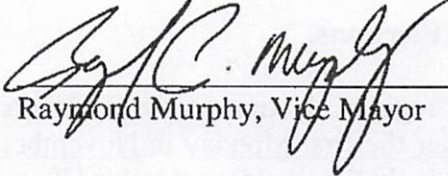
Section 17. That this Ordinance shall become effective immediately upon adoption.

The foregoing Ordinance was adopted by the Town Council upon a motion by Vice Mayor Murphy and seconded by Councilmember Butcher and upon being put to a roll call vote, the result was as follows:

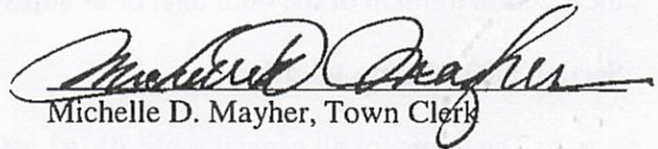
|                                |         |
|--------------------------------|---------|
| Anita Cereceda, Mayor          | excused |
| Ray Murphy, Vice Mayor         | aye     |
| Joanne Shamp, Councilmember    | aye     |
| Rexann Hosafros, Councilmember | nay     |
| Bruce Butcher, Councilmember   | aye     |

ADOPTED this 5th day of August, 2019 by the Town Council of the Town of Fort Myers Beach, Florida.

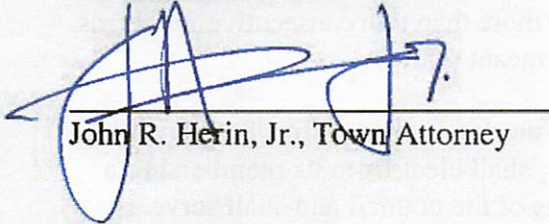
TOWN OF FORT MYERS BEACH

  
Raymond Murphy, Vice Mayor

ATTEST:

  
Michelle D. Mayher, Town Clerk

APPROVED AS TO FORM:

  
John R. Herin, Jr., Town Attorney

## **EXHIBIT "A"**

The "Town of Fort Myers Beach Charter" adopted as Chapter 95-494, Laws of Florida is amended as follows:<sup>1</sup>

### **Sec. 5.01. - Elections.**

The regular election of the members of the council shall be held on the first ~~second~~ Tuesday after the first Monday in November ~~March, except in presidential preference primary years when it shall be held on the third Tuesday in March~~ or as otherwise provided by general law. The time period that candidates must qualify shall be from noon of the 50th day prior to the election to noon of the 46th day, or as adjusted by a holiday or leap year.

### **Section 5.03 - Terms of office.**

The terms for all council seats, #1, #2, #3, #4, and #5, shall be for 3 4 years, ~~except during the transition period~~, seats #1 and #2 shall initially be for a term from ~~November, 2000 to March, 2004~~ March, 2019 to November, 2023, and seats #3, #4, & #5 shall be for a term from March, 2020 to November, 2024. No member of the council shall serve for more than two consecutive full terms. After 1 year out of office, a candidate may re-qualify for any vacant seat.

Section 4.02 Mayor -- At the first meeting after the ~~second Tuesday in March~~ first Tuesday after the first Monday in November, the council, by majority vote, shall elect from its membership a mayor. The mayor shall serve as chairperson during meetings of the council and shall serve as the head of municipal government for the purpose of execution of legal documents as required by ordinance. The mayor shall also serve as the ceremonial head of the town.

Section 4.03 Vice mayor -- At the first meeting after the ~~second Tuesday in March~~ first Tuesday after the first Monday in November, the council, by a majority vote, shall elect from among its membership a vice mayor who shall serve as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become interim mayor pursuant to section 4.08 of this charter.

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<sup>1/</sup> Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strikethrough~~.

## **ORDINANCE NO. 24-31**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTIONS 4.02 “MAYOR,” 4.03 “VICE MAYOR,” 5.01 “ELECTIONS,” AND 5.03 “TERMS OF OFFICE” OF FORT MYERS BEACH TOWN CHARTER, TO CODIFY CHANGES TO THE DATE OF TOWN ELECTIONS FROM MARCH TO NOVEMBER AND TO ESTABLISH FOUR (4) YEAR TERMS OF OFFICE FOR TOWN COUNCIL MEMBERS, AS APPROVED BY THE VOTERS AT THE MARCH 2020 MUNICIPAL ELECTION; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER’S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.**

**WHEREAS**, 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 service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Article X of the Town Charter of the Town of Fort Myers Beach 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**, on August 5, 2019, the Town Council adopted Ordinance 19-08, to amend the Town’s Charter so that the Town’s regular election coincides with Federal and State election dates and to establish four (4) year terms of office for Town Council members, and also directed the Supervisor of Elections to place the proposed amendments on the ballot for consideration by the electorate; and

**WHEREAS**, on March 17, 2020, a municipal election was held in the Town of Fort Myers Beach in conjunction with the presidential preference primary election; and

**WHEREAS**, the proposed amendment to the Town Charter as it pertains to the election date was approved by a vote of 1,877 to 372, and the proposed amendment to the terms of office was approved by a vote of 1,348 to 891, as certified by the Lee County Supervisor of Elections to the Town on April 3, 2020; and

**WHEREAS**, the Town desires to amend Sections 4.02, 4.03, 5.01, and 5.03 of the Town Charter as approved by the Town’s voters during the 2020 municipal election and as provided in Ordinance 2019-08; and

**WHEREAS**, on the 21st day of October, 2024, the Town Council held a first reading of Ordinance 24-31; and

**WHEREAS**, a Business Impact Estimate was prepared and posted on the Town’s website on the 18<sup>th</sup> day of October, 2024, as required by Section 166.041(4), Florida Statutes; and

**WHEREAS**, an advertisement of the public hearing for adoption of the Ordinance was published in the News Press on the 18<sup>th</sup> day of October, 2024, which is 10 days prior to the final reading of the proposed Ordinance as required by Section 166.041, Florida Statutes; and

**WHEREAS**, on the 28th day of October 2024, the Town Council held a second and final reading of Ordinance 24-31; and

**WHEREAS**, the Town Council determined that adoption of the Ordinance as provided herein is in the best interests of the health, safety, welfare, and morals of the Town's residents.

**NOW THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:**

**Section 1.** The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Town Council.

**Section 2.** Sections 4.02 "Mayor," 4.03 "Vice mayor," 5.01 "Elections," and 5.03 "Terms of office" of the Town of Fort Myers Beach Charter, as provided in Ordinance 19-08 and approved by the Town's voters during March 2020 municipal election, are hereby amended to read as follows:

**Sec. 5.01. – Elections.**

The regular election of the members of the council shall be held on the first ~~second~~ Tuesday after the first Monday in November ~~March, except in presidential preference primary years when it shall be held on the third Tuesday in March~~ or as otherwise provided by general law. The time period that candidates must qualify shall be from noon of the 50<sup>th</sup> day prior to the election to noon of the 46<sup>th</sup> day, or as adjusted by a holiday or leap year.

**Sec. 5.03. – Terms of office.**

The terms for all council seats, #1, #2, #3, #4, and #5, shall be for 3, 4 years, ~~except during the transition period~~, seats #1 and #2 shall initially be for a term from ~~November, 2000 to March, 2004~~ March, 2019 to November, 2023, and seats #3, #4, & #5 shall be for a term from ~~November 2001 to March 2005~~ March, 2020 to November, 2024. No member of the council shall serve for more than two consecutive full terms. After 1 year out of office, a candidate may re-qualify for any vacant seat.

**Sec. 4.02. – Mayor.**

At the first meeting after the ~~second Tuesday in March~~ first Tuesday after the first Monday in November, the council, by majority vote, shall elect from its membership a mayor. The mayor shall serve as chairperson during meetings of the

council and shall serve as the head of municipal government for the purpose of execution of legal documents as required by ordinance. The mayor shall also serve as the ceremonial head of the town.

**Sec. 4.03. – Vice mayor.**

At the first meeting after the ~~second Tuesday in March~~ first Tuesday after the first Monday in November, the council, by majority vote, shall elect from among its membership a vice mayor who shall serve as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become interim mayor pursuant to section 4.08 of this charter.

**Section 3.** That the Town Council intends that the provisions of this Ordinance be made a part of the Town of Fort Myers Beach Charter, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the town manager without further process.

**Section 4.** Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

**Section 5.** If any section, subsection, sentence, clause, word, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

**Section 6.** This Ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by Council Member King and seconded by Council Member Safford, and upon being put on a roll call vote, the results were as follows:

|                               |     |
|-------------------------------|-----|
| Dan Allers, Mayor             | Aye |
| Jim Atterholt, Vice Mayor     | Aye |
| John R. King, Council Member  | Aye |
| Karen Woodson, Council Member | Aye |
| Scott Safford, Council Member | Aye |

**ADOPTED** this 28<sup>th</sup> day of October 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

**TOWN OF FORT MYERS BEACH**

*Dan Allers*  
Dan Allers (Nov 4, 2024 06:33 EST)  
Dan Allers, Town Mayor

**ATTEST:**

*Amy Baker*  
Amy Baker (Nov 4, 2024 06:16 EST)  
Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE  
USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

*Nancy Stuparich*  
Nancy Stuparich (Nov 1, 2024 20:55 EDT)  
Vose Law Firm, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 1<sup>st</sup> day of November 2024.

**ORDINANCE NO. 24-32**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING SECTION 2 (A) OF ORDINANCE 2005-04 FOR CONSISTENCY WITH THE CHANGES TO THE TOWN CHARTER APPROVED BY THE TOWN VOTERS AT THE MUNICIPAL ELECTION ON MARCH 17, 2020; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.**

**WHEREAS**, 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 service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Article X of the Town Charter of the Town of Fort Myers Beach 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 2005-04 was adopted on February 28, 2005, clarifying and interpreting the language in Sections 4.02 "Mayor" and 4.03 "Vice mayor" of the Town Charter and changing the month of the election of the Town Mayor and Vice mayor from November to March in non-election years; and

**WHEREAS**, on August 5, 2019, the Town Council adopted Ordinance 19-08, to amend the Town Charter so that the Town's regular election coincides with Federal and State election dates in November, and directed the Supervisor of Elections to place the proposed amendments on the ballot for approval by the electorate; and

**WHEREAS**, on March 17, 2020, the Town of Fort Myers Beach held a municipal election, and the proposed Charter amendment was approved by a vote of 1,877 to 372, as certified by the Lee County Supervisor of Elections to the Town on April 3, 2020; and

**WHEREAS**, Ordinance 2005-04 was not thereafter amended for consistency with the change in the time for municipal elections, necessitating the adoption of this Ordinance; and

**WHEREAS**, on the 21st day of October, 2024, the Town Council held a first reading of Ordinance 24-32 and approved Ordinance 24-32 with no changes for second reading; and

**WHEREAS**, a Business Impact Estimate was prepared and posted on the Town's website on the 18<sup>th</sup> day of October, 2024, as required by Section 166.041(4), Florida Statutes; and

**WHEREAS**, an advertisement of the public hearing for adoption of the Ordinance was published in the News Press on the 18<sup>th</sup> day of October, 2024, which is 10 days prior to the final reading of the proposed Ordinance as required by Section 166.041, Florida Statutes; and

**WHEREAS**, on the 28th day of October 2024, the Town Council held a second and final reading of Ordinance 24-32; and

**WHEREAS**, the Town Council determined that adoption of Ordinance 24-32 as provided herein is in the best interests of the health, safety, welfare, and morals of the Town's residents.

**NOW THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:**

**Section 1.** The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Town Council.

**Section 2.** Section 2 of Ordinance 05-04, is hereby amended to read as follows:

SECTION 2. For clarification and as a matter of policy Section 4.02 Mayor and Section 4.03 Vice mayor shall be interpreted to include:

*Section 4.02 Mayor.—At the first regularly scheduled meeting following the town's regular election, the council, by majority vote, shall elect from its membership a mayor. The mayor shall serve as a chairperson during meetings of the council and shall serve as the head of municipal government for the purpose of execution of legal documents as required by ordinance. The mayor shall also serve as the ceremonial head of the town.*

*Section 4.03 Vice mayor.—At the first regularly scheduled meeting following the town's regular election, the council, by a majority vote, shall elect from among its membership a vice mayor who shall serve as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become interim mayor pursuant to section 4.08 of this charter.*

- A. In non-election years the election of mayor and vice-mayor shall be at the first regularly scheduled meeting in ~~November~~ March ~~November~~.
- B. Should the vice mayor become interim mayor, then, the council, by a majority vote, shall elect from its membership an interim vice mayor who shall serve as mayor during the absence or disability of the interim mayor.

**Section 3.** That the Town Council intends that the provisions of this Ordinance be made a part of the Town of Fort Myers Beach Charter, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the Town Manager without further process.

**Section 4.** Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

**Section 5.** If any section, subsection, sentence, clause, word, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

**Section 6.** This Ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by Council Member Safford and seconded by Council Member Woodson, and upon being put on a roll call vote, the results were as follows:

|                               |     |
|-------------------------------|-----|
| Dan Allers, Mayor             | Aye |
| Jim Atterholt, Vice Mayor     | Aye |
| John R. King, Council Member  | Aye |
| Karen Woodson, Council Member | Aye |
| Scott Safford, Council Member | Aye |

**ADOPTED** this 28<sup>th</sup> day of October 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

**TOWN OF FORT MYERS BEACH**

*Dan Allers*  
Dan Allers (Nov 4, 2024 09:34 EST)  
Dan Allers, Town Mayor

**ATTEST:**

*Amy Baker*  
Amy Baker (Nov 4, 2024 08:17 EST)  
Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE  
USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

*Nancy Sturparich*  
Nancy Sturparich (Nov 1, 2024 20:54 EDT)  
Vose Law Firm, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 1<sup>st</sup> day of November 2024.

# ARTICLE V.      NOMINATIONS AND ELECTIONS; TERMS OF OFFICE

## **Sec. 5.01. Elections.**

The regular election of the members of the Town Council shall be held on the first Tuesday after the first Monday in November or as otherwise provided by general law. The time period that candidates must qualify shall be from noon of the 50<sup>th</sup> day prior to the election to noon of the 46<sup>th</sup> day, or as adjusted by a holiday or leap year.

## **Sec. 5.02. Commencement of Term.**

The term of a member of the council shall begin at the first council meeting following the general election.

## **Sec. 5.03. Terms of office.**

The terms for all council seats, #1, #2, #3, #4, and #5, shall be for 4 years, seats #1 and #2 shall initially be for a term from March 2019 to November 2023, and seats #3, #4, & #5 shall be for a term from March 2020 to November 2024. No member of the council shall serve for more than two consecutive full terms. After 1 year out of office, a candidate may re-qualify for any vacant seat.

## **Sec. 5.06. Nonpartisan elections.**

All elections for officers of the town shall be conducted on a nonpartisan basis without any designation of political party affiliation.

## **Sec. 5.07. Multiple candidates.**

In the event that more candidates qualify for election than there are open council seats, those candidates shall participate in the regular election and the candidate or candidates receiving the most votes cast shall be elected to the open council seat or seats.

## Sec. 5.08. Recall.

The qualified electors of the municipality shall have the power to recall and to remove any elected official of the town as prescribed by general law.

## Sec. 5.09. Town canvassing board.

The town canvassing board shall be composed of a Town Council Member, selected by Town Council, who is not a candidate for reelection, the Town Manager and the Town Clerk, who shall act as chairperson. At the close of polls of any town election, or as soon thereafter as practicable, the canvassing board shall meet at a time and place designated by the chairperson and shall proceed to publicly canvass the vote as shown by the returns then on file in the Office of the Supervisor of Elections. The Board shall prepare and sign a certificate containing the total number of votes cast for each person or other measure voted on. The certificate shall be placed on file with the Town Clerk

12/2/2025

## CHARTER COMMITTEE INPUT

### ARTICLE V. NOMINATIONS AND ELECTIONS: TERMS OF OFFICE

#### 5.01 — Elections

##### Fort Myers Beach

- Regular elections held in November.
- Town conducts its own canvassing (not county).
- Candidate qualifying follows Florida Statutes.
- Elections are nonpartisan.

##### Sanibel

- Elections held in March (odd-numbered years).
- Administered directly by the Lee County Supervisor of Elections.
- Reduces town administrative burden and liability.

##### Estero

- Uses Lee County Supervisor of Elections (SOE) to run all elections.
- Aligns municipal elections with federal/state cycles for higher turnout.

##### Marco Island

- Elections administered by Collier County SOE.
- November elections; fully county-managed.

#### Best Practice Recommendation

Use Lee County Supervisor of Elections to administer all elections. This increases accuracy, reduces cost, ensures ADA compliance, and removes staff conflicts.

#### 5.02 — Commencement of Term

**Fort Myers Beach** - Term begins at first meeting after canvassing board certifies results.

**Sanibel** - New members sworn in at first organizational meeting after results are certified by county.

**Estero** - Same as Sanibel: seating occurs at next regular meeting after county certification.

**Marco Island** - Council reorganizes immediately after county certification; mayor/vice mayor selected at the same meeting.

#### **Best Practice Recommendation**

Term should begin after county certification at the very next regular meeting. Ensures smooth transition, avoids “lame duck” decision-making.

### **5.03 — Terms of Office**

**Fort Myers Beach** - 4-year terms, Term limits: 2 consecutive terms.

**Sanibel** - 4-year terms, No term limits.

**Estero** - 4-year staggered terms, Two-term limit (matches FMB).

**Marco Island** - 4-year staggered terms, No formal term limits.

#### **Best Practice Recommendation**

4-year staggered terms + two-term limit (Estero/FMB model). Provides continuity but prevents long-term incumbency.

### **5.06 — Nonpartisan Elections No changes recommended**

**Fort Myers Beach** - Elections are formally nonpartisan, No party labels on ballot.

**Sanibel** - Nonpartisan elections by charter, Strict prohibition on using political party affiliation in campaigns.

**Estero** - Completely nonpartisan; no party references permitted.

**Marco Island** - Nonpartisan elections required by charter.

#### **Best Practice Recommendation**

Keep elections strictly nonpartisan, reinforcing local governance over political party influence.

### **5.07 — Multiple Candidates – No changes recommended**

**Fort Myers Beach** - Plurality wins, Highest vote-getter for each seat is elected.

**Sanibel** - Same plurality system, No runoffs.

**Estero** - Same plurality model; candidates run for specific seats.

**Marco Island** - Follows plurality vote for each designated seat.

#### **Best Practice Recommendation**

Maintain plurality vote system (no runoffs). Clear, simple, avoids additional cost.

## 5.08 — Recall

**Fort Myers Beach** - Follows Florida Statute 100.361, Recall permitted for listed grounds: malfeasance, misfeasance, etc.

**Sanibel** - Same statutory recall procedure; administered by county.

**Estero** - Same statutory recall provisions.

**Marco Island** - Same recall process under state law.

**Best Practice Recommendation** Retain state-based recall procedure, but Add timing limits: no recall during the first or last 6 months of a term. Prevents politically motivated abuse.

## 5.09 — Canvassing Board

### Fort Myers Beach

- Town-run canvassing board: 1 council member, Town Manager, Town Clerk.
- Automatic internal certification.
- Potential for conflicts of interest (councilmembers serving during their own election cycle).

### Sanibel

- Uses Lee County Canvassing Board.
- No town involvement; avoids conflicts.

### Estero

- County-run canvassing.
- Town does not participate.

### Marco Island

- Collier County Canvassing Board handles certification.
- Town does not conduct its own canvassing.

### Best Practice Recommendation

Switch to County Supervisor of Elections Canvassing Board. This is the model for Sanibel, Estero, Marco Island. It eliminates conflict, increases transparency, and reduces legal exposure.