

ORDINANCE No. 06-20

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AUTHORIZING A REFERENDUM ON THE QUESTION OF TOWN ACQUISITION OF FINANCING OR EXTENSION OF EXISTING FINANCING IN EXCESS OF THIRTY-SIX MONTHS RELATED TO THE REFINANCING OF THE PURCHASE OF THE TOWN OF FORT MYERS BEACH PUBLIC SERVICES, INC. AND CAPITAL IMPROVEMENTS RELATED THERETO; PROVIDING AUTHORITY; 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 XI of the Town Charter provides that "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 for the purchase of real property or construction of any capital improvements, the repayment of which extends in excess of thirty-six months, unless mandated by state or federal governing agencies"; and

WHEREAS, the Town Council has determined that it is necessary to acquire financing or extend the existing financing in excess of thirty six months in connection with the refinancing of the purchase of the water utility operated by the Town of Fort Myers Beach Public Works Services, Inc. and to provide for capital improvements to the utility, so as to protect the public health, safety and welfare and to preserve the lives and property of the citizens of the Town; and

WHEREAS, the above financing exceeds thirty-six months and therefore requires advance voter approval.

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. REFERENDUM QUESTION. The Town Council shall submit the following question, in substantially this form, to the vote of the electorate at the next general election:

TITLE: Acquisition of Financing in Excess of 36 Months

SUMMARY: Is the Town Council authorized to obtain financing or extend the existing financing in excess of 36 months in connection with the refinancing of the purchase of the water utility operated by the Town of Fort Myers Beach Public Works Services, Inc. and for the purpose of providing for capital improvements necessary in connection with the operation and maintenance thereof?

Yes, For Approval _____

No, For Rejection _____

SECTION 3. EFFECT OF REFERENDUM; EFFECTIVE DATE. Upon approval of the referendum question set forth in Section 2 above by a majority vote of the electorate voting in the referendum and certification of same by the canvassing board, such provision shall be deemed approved. In the event that the referendum question set forth in Section 2 above is not approved by such majority vote and certified by the canvassing board, this ordinance shall be deemed null and void and of no effect.

SECTION 4. LANGUAGE MODIFICATIONS The Town Attorney is authorized to modify the language set forth in Section 2 to conform to the requirements of the Supervisor of Elections or otherwise, so long as the content of the referendum question remains substantially as set forth in this ordinance.

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.

The foregoing Ordinance was adopted by the Town Council upon a motion by Vice Mayor Don Massucco and seconded by Council Member Charles Meador, Jr. and, upon being put to a vote, the result was as follows:

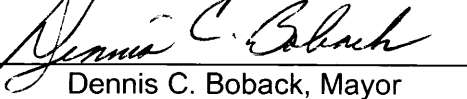
Dennis C. Boback , Mayor	<u>aye</u>
Don Massucco, Vice Mayor	<u>aye</u>
Charles Meador, Jr.	<u>aye</u>
Garr Reynolds	<u>nay</u>
William Shenko, Jr.	<u>nay</u>

DULY PASSED AND ADOPTED this 20th day of November, 2006.

ATTEST:

TOWN OF FORTMYERS BEACH

By: 
Michelle Mayher, Town Clerk

By: 
Dennis C. Boback, Mayor

Approved as to legal sufficiency by:


Anne Dalton, Town Attorney