



# AGENDA ITEM MEMORADUM

**Town Manager**

**Connie Hoffmann**

Department

Department Director

COMMISSION MEETING DATE (*) - 7:00 PM	Deadline to Town Clerk
<input checked="" type="checkbox"/> Oct 11, 2011	Sept 30th
<input type="checkbox"/> Oct 25, 2011	Oct 14th
<input type="checkbox"/> Nov 8, 2011	Oct 28 <sup>th</sup>
<input type="checkbox"/> Nov 29, 2011	Nov 10 <sup>th</sup>
<input type="checkbox"/> Dec 13, 2011	Dec 2 <sup>nd</sup>

\*Subject to Change

- Presentation     Reports     Consent     Ordinance  
 Resolution     Quasi-Judicial     Old Business     New Business

**FY2012 DESIGNATED HIGH PRIORITY ITEM – PRIORITY TOPIC**

**SUBJECT TITLE:** Resolution 2011-37: A Resolution opposing the City of Fort Lauderdale’s proposal to require potable water customers in the Town to pay a “dividend” to subsidize the general operating expenses of the city.

**EXPLANATION:** I have communicated with the Fort Lauderdale City Manager but have not yet received an explanation of the rationale for the “dividend” payment from their Utilities Fund to their General, nor clarification on whether is built into the 6.75% water rate increase they are instituting or is added on top of it. I did review their most recent rate study, which recommended that they establish very significant reserves in order to get favorable ratings on borrowing for capital improvements to their plants and infrastructure.

The City Manager did advise me that their new rate ordinance (which passed in September) does provide for the possibility of rebates to Lauderdale-by-the-Sea properties that are their water customers if the following conditions occur:

“By April 30<sup>th</sup> of each year, the City Manager shall determine if as of September 30<sup>th</sup> of the year prior whether projected revenues based on adjusted rates exceed the following five criteria: 1) annual revenues exceed annual expenses, 2) net revenue is at or above 2.0 times annual debt service expenses, 3) there is an operating reserve at least equal to 120 days of operating costs, 4) there is an unrestricted capital reserve of at least \$10 million, and 5) there is replacement and repair funding of at least \$10 million. If there is projected revenue that exceeds these five criteria, the current customers shall receive a proportionate rebate of the excess funds on their water/wastewater bill in the same fiscal year. For purposes of this Note, revenue, expenses, and net revenue are as defined in City Commission Resolution No. 03-29.”

We also checked and found that Fort Lauderdale did notify their customers on the back of the bills they sent out in late August of the September public hearings on the rate increases. The notice was one of four announcements on the back of the bill, but appears to satisfy the state statute requirement of notice.

**EXHIBITS: Resolution # 2011-37**

Reviewed by Town Attorney  
 Yes     No

Town Manager Initials CH

**RESOLUTION 2011-37**

**A RESOLUTION OF THE TOWN COMMISSION OF THE  
TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA,  
OPPOSING THE CITY OF FORT LAUDERDALE'S  
PROPOSAL TO REQUIRE POTABLE WATER  
CUSTOMERS IN THE TOWN TO PAY A "DIVIDEND" TO  
SUBSIDIZE THE GENERAL OPERATING EXPENSES OF  
THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE**

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9       **WHEREAS**, residents and property owners in the southern half of the Town of  
10 Lauderdale-By-The-Sea (the "Town") receive potable water from the City of Fort Lauderdale  
11 (the "City") pursuant to the May 6, 2008 Water System Asset Purchase, Services and Franchise  
12 Agreement between the Town and the City (the "Agreement"), and

13       **WHEREAS**, the Agreement establishes the financial arrangement for the sale of the  
14 Town's potable water infrastructure to the City, and grants the City granted an exclusive  
15 franchise as potable water provider in the Franchise Service Area, for a consideration of only  
16 \$350,000, and

17       **WHEREAS**, the Town Commission faces the same declining revenues and budgetary  
18 challenges as all local governments are experiencing, together with the challenge of providing  
19 necessary services to residents and businesses without raising taxes; and

20       **WHEREAS**, the City is already charging Town residents and businesses an amount  
21 25% greater than the charge levied upon potable water customers located within the City; and

22       **WHEREAS**, the City has never before charged a "dividend" to potable water  
23 customers, and such a charge was not contemplated in the Agreement; and

24       **WHEREAS**, the revenues received by the City from the "dividend" will provide no  
25 benefit to Town residents and businesses and therefore is in the nature of an indirect tax  
26 increase on Town residents and businesses without representation; and

**RESOLUTION 2011-37**

27           **WHEREAS**, the Town Commission desires to see state law changed to prevent a tax,  
28 surcharge, dividend, or any other financial imposition of this nature on a utility supplied to  
29 Town residents and businesses; and

30           **WHEREAS**, the Town Commission finds that the adoption of this Resolution is in the  
31 best interest of the Town of Lauderdale-By-The-Sea.

32           **NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN**  
33 **COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AS**  
34 **FOLLOWS:**

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36           **Section 1.    Recitals.** The recitals contained in the preamble to this Resolution are  
37 incorporated by reference herein.

38           **Section 2.    Request to the City of Fort Lauderdale.** The Town opposes the City’s  
39 proposed “dividend” charge upon customers located outside the City. This charge is in addition  
40 to the current 25% statutory surcharge, is admittedly in excess of the revenue needed to operate  
41 the potable water system, and non-residents will not benefit from the City’s expenditures of the  
42 revenues from this “dividend” to support the City’s general operations.

43           **Section 3.    Request to the Broward County Legislative Delegation.** The Town  
44 desires to see an amendment to the Florida Statutes to prevent suppliers of potable water from  
45 levying charges on non-resident customers, when the charges are unrelated to the cost of  
46 providing potable water service and the revenues are not used to defray the expense of providing  
47 potable water.

48           **Section 4.    Direction to Town Clerk.** The Town Clerk is directed to forward a copy  
49 of this Resolution to the City’s Mayor and Commission, and to the members of the Broward  
50 County Legislative Delegation.

**RESOLUTION 2011-37**

51           **Section 5.**   **Effective Date.** This Resolution shall become effective immediately  
52 upon its adoption.

53           PASSED AND ADOPTED THIS \_\_\_ day of \_\_\_\_\_, 2011.

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Mayor Roseann Minnet

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59 ATTEST:

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Town Clerk June White, CMC

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65 APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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Town Attorney Susan L. Trevarthen

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