



TOWN OF HIGHLAND BEACH

AGENDA MEMORANDUM

MEETING TYPE: Town Commission Meeting

MEETING DATE 07/23/2024

SUBMITTED BY: Marshall Labadie, Town Manager

SUBJECT: Discussion of integrating the use of a Special Magistrate into the Code Enforcement Process.

SUMMARY:

On June 18, the Town Commission approved a professional services agreement with Wagner Legal Services, LLC for special magistrate services. The Commission during the approval of the agreement discussed how to address many of the challenges facing the town regarding the code enforcement process. The challenges discussed centered on the shortage of appointed members to form a quorum for the Code Enforcement Board and concerns about risk management in rendering decisions on highly technical violations.

Based on the discussion, the Town Commission directed the Town Manager to present potential options to improve the code enforcement process utilizing both a special magistrate and the resident appointed code enforcement board.

Currently, the Town of Highland Beach relies on a resident-appointed Code Enforcement Board to handle all code violations. However, the recent inability to maintain a full seven-member board and the need for specialized legal expertise in certain cases necessitate the consideration of additional methods for code enforcement.

Options for Consideration

1. No Action Alternative

The first option is to continue solely utilizing the Code Enforcement Board without any changes. This maintains the status quo but does not address the current challenges.

2. Violator Selection Option

Under this option, violators would be given the choice to select either the Code Enforcement Board or a Special Magistrate to hear their case. This selection must be made within a prescribed period following notice of the option, which would be sent via first-class mail. If the

violator does not make a selection within the prescribed time, the case would automatically be assigned to the Special Magistrate.

3. Case Distribution by Violation Class

This option involves distributing cases based on the class of violation as defined in Section 2-174.

Specifically:

- Code Enforcement Board would handle Class I and Class II violations.
- Special Magistrate would handle Class III and all fire code violations.

This option would also allow for using either the Code Enforcement Board or the Special Magistrate in situations where a quorum of the Code Enforcement Board cannot be met or the Special Magistrate is unavailable.

Implementation and Compliance

Both options require further refinement by the Town Attorney to ensure compliance with state law and the provision of appropriate due process to violators.

Pursuant to Section 2-175, the Town Commission has the operational and statutory flexibility to implement either option through a resolution. Implementing these options via resolution allows for quicker and more efficient adjustments compared to the ordinance amendment process.

FISCAL IMPACT:

TBD. No substantive change to budget required.

ATTACHMENTS:

None

RECOMMENDATION:

Given the immediate concern of not having enough appointed members to form a quorum and the need to address risk management in complex cases, the Town Commission should consider adopting option number 2 or 3. The Violator Selection Option and the Case Distribution by Violation Class Option provide viable solutions to enhance the efficiency and effectiveness of the code enforcement process.