

RESOLUTION OF THE TOWN COUNCIL OF  
THE TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 09-02A

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, PROVIDING FOR A RESPONDING RESOLUTION AS CONTEMPLATED IN PART II, CHAPTER 171, FLORIDA STATUTES; RESPONDING TO THE INITIATING RESOLUTION FROM LEE COUNTY, FLORIDA TO NEGOTIATE AN INTERLOCAL SERVICE BOUNDARY AGREEMENT TO DESIGNATE A JOINT PLANNING AREA AND PROVIDE FOR THE EFFICIENT DELIVERY AND FUNDING FOR PUBLIC SERVICES; 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 Town Charter of the Town of Fort Myers Beach, Florida empowers the Town Council to adopt, amend, or repeal such resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Florida Interlocal Cooperation Act of 1969, Florida Statutes §163.01, encourages and empowers local governments to cooperate with one another on matters of mutual interest and advantage, and provides for interlocal agreements between local governments on matters such as joint planning; and

WHEREAS, the Interlocal Service Boundary Agreement Act, Chapter 171, Part II, Florida Statutes, as well as the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, recognizes the use of interlocal service boundary agreements and joint planning agreements as a means to coordinate future land use, public facilities and services, and protection of natural resources in advance of annexation; and

WHEREAS, on January 20, 2009 the Board of County Commissioners of Lee County, Florida adopted Resolution No. 09-01-14 initiating the negotiating process with the Town of Fort Myers Beach, Florida as provided for in the Act and passed similar resolutions for the other four (4) municipalities within Lee County, to wit, Bonita Springs; Cape Coral, Fort Myers, and Sanibel; and

WHEREAS, Lee County Resolution 09-010-14 constitutes an “initiating resolution” as such as defined in Section 171.202 (7), Florida Statutes; and

WHEREAS, the Town of Fort Myers Beach is required to approve a “responding resolution” within sixty (60) days of the County’s approval of the initiating resolution, pursuant to the requirements of Section 171.203; and

WHEREAS, if the Town fails to approve such a responding resolution within such time period, the Town will be deemed to have waived its right to participate in the negotiation process for an interlocal service boundary agreement, pursuant to Section 171.203(5), Florida Statute; and

WHEREAS, it is the intent of the Town Council of the Town of Fort Myers Beach to participate in the negotiating process as commenced by Lee County under the Act; and

WHEREAS, the Town Council of the Town of Fort Myers Beach hereby designates the issues below for negotiation with the County and identifies additional proposed municipal service and planning areas within Town of Fort Myers Beach and unincorporated Lee County as set forth below.

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

Section 1. The above recitals as set forth in the various “Whereas” clauses are hereby adopted and incorporated into the body of this Resolution.

Section 2. The Town Council of the Town of Fort Myers Beach hereby declares its intent to retain all of its Home Rule Powers as provided for in Section 2(b), Article VIII of the Florida Constitution, as further set forth in Florida Statutes §166.021, and nothing contained in this Resolution shall be interpreted as diminishing such powers.

Section 3. The Town of Fort Myers Beach hereby responds to the County’s proposal of geographic areas designated for discussion for possible incorporation into an interlocal service boundary agreement, as set forth in County Resolution 09-01-14, by identifying the following additional geographic areas within the incorporated boundary of the Town of Fort Myers Beach and/or the unincorporated area(s) of Lee County, Florida, for discussion with Lee County:

all of the property within the incorporated limits of the Town of Fort Myers Beach; all of San Carlos Island within unincorporated Lee County, Florida; and additional area within unincorporated Lee County, Florida on either side of San Carlos Boulevard north of San Carlos Island and south of Summerlin Boulevard.

The areas identified in this Section 3 are specified by the descriptive exhibit attached hereto as Exhibit A and are hereby incorporated by reference. Composite Exhibit A includes, but is not limited to, a map and legal description of the designated area as required by Section 171.203(2), Florida Statutes.

Section 4. The Town of Fort Myers Beach hereby agrees to consider the County’s proposal of joint planning issues for discussion purposes for possible incorporation into an interlocal service boundary agreement, as set forth in County Resolution 09-01-14 and reiterated as follows: transit and trolley service; San Carlos Boulevard bridge, hurricane evacuation, new bridge, regional beach management, blueways coordination, cooperative efforts to address regional water quality; utilities, San Carlos Island Redevelopment, future role of Community Redevelopment Agencies/tax increment financing.

Section 5. The Town identifies the following additional issues for negotiation pursuant to the requirements of Sections 171.203(2) and 171.203(6), Florida Statutes:

the Town's participation in the County's Tourist Development Council; traffic mitigation issues; issues related to the Municipal Planning Organization (MPO) as well as the proposed creation of a taxing authority related to the MPO; issues related to Estero Boulevard; County-Town issues related to school concurrency; issues related to economic matters, including but not limited to the Lee County five (5) year Capital Improvement Program (CIP); and issues related to the waters adjacent to and within the Town and any waterbodies within the joint planning area and related matters; and other matters of joint interest.

Section 6. The Town of Fort Myers Beach expresses concern about Section 3 of the County's Initiating Resolution in that it states that the County will remain responsible for the delivery and funding of various enumerated services "unless otherwise specifically established in an agreement", with those services including planning, zoning, and water, all of which are under the Town's control at this time. The Town hereby requests clarification of the County's purpose in this section.

Section 7. The Town of Fort Myers Beach further responds to the County's initiating resolution by stating that, in the event an Interlocal Agreement results from the negotiations contemplated by this Resolution, such Interlocal shall state that any input from the County regarding planning or other decisions involving property within the Town of Fort Myers Beach shall be non-binding on any Town process.

Section 8. The Town Manager is hereby instructed to send a copy of this responding resolution by United States certified mail to the chief administrative officers of Lee County, Florida, Cape Coral, City of Fort Myers, Bonita Springs and Sanibel, within seven (7) days of its adoption by the Town Council of the Town of Fort Myers Beach in accordance with the requirements of Section 171.203, Florida Statutes.

Section 9. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach Town.

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

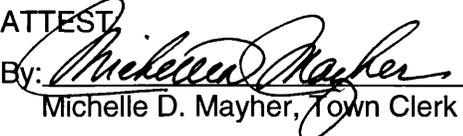
Larry Kiker, Mayor aye  
Tom Babcock, Councilmember aye  
Bob Raymond, Councilmember aye

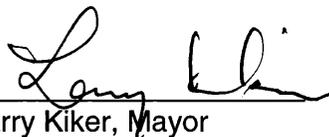
Herb Acken, Vice Mayor aye  
Jo List, Councilmember aye

DULY PASSED AND ADOPTED this 16<sup>th</sup> day of March, 2009.

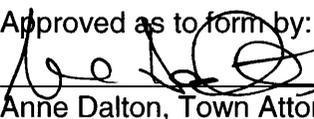
TOWN OF FORT MYERS BEACH

ATTEST

By:   
Michelle D. Mayher, Town Clerk

By:   
Larry Kiker, Mayor

Approved as to form by:

  
Anne Dalton, Town Attorney



**Annexation Joint Planning Area**

**All that part of Lee County that is located and situated within Estero Island, including a corporate limit line offshore 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.**

**(Town of Fort Myers Beach)**

**AND**

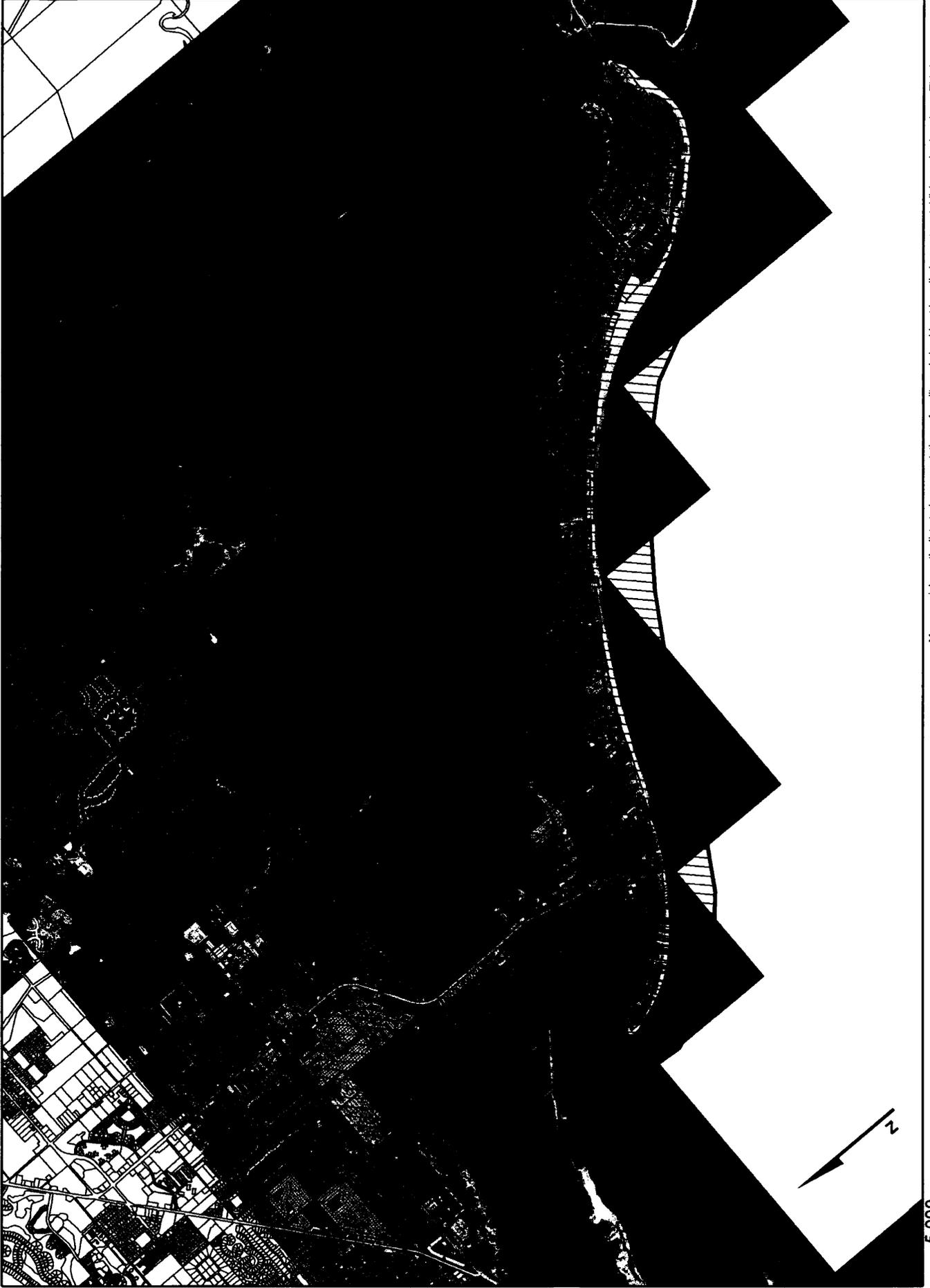
**In Lee County, Florida:**

**Section 12, Township 46 South, Range 23 East  
Section 13, Township 46 South, Range 23 East  
Section 24, Township 46 South, Range 23 East  
Section 7, Township 46 South, Range 24 East  
Section 8, Township 46 South, Range 24 East  
Section 19, Township 46 South, Range 24 East**

**(Lee County)**



# Proposed Annexation Joint Planning Area



5,000

Feet

Maps are inherently distorted representations of reality, and should not be relied upon to establish precise locations. This is not a survey