

**RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 09-05**

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, PURSUANT TO CHAPTER 171, PART II, FLORIDA STATUTES, THE INTERLOCAL SERVICE BOUNDARY AGREEMENT ACT; ACCEPTING THE INVITATION FROM THE CITIES OF CAPE CORAL, BONITA SPRINGS, AND FORT MYERS TO PARTICIPATE IN NEGOTIATIONS FOR AN INTERLOCAL SERVICE BOUNDARY AGREEMENT WITH LEE COUNTY AS SET FORTH IN EACH CITY'S RESPONDING RESOLUTION TO LEE COUNTY, FLORIDA; 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, on March 16, 2009, the Town Council of the Town of Fort Myers Beach approved Resolution 09-02 to respond to Lee County's "initiating resolution," pursuant to the requirements of Section 171.203, Florida Statutes; and

WHEREAS, F.S. 171.203 (2) states that a responding resolution on the part of an invited municipality may also invite an additional municipality to negotiate an interlocal service boundary agreement.; and

WHEREAS, F.S. 171.203(2)(c) states that an invited municipality that was invited by a responding resolution shall accept a responding resolution in accordance with F.S. 171.203(2)(b), i.e., such municipality shall send a responding resolution by United States Certified Mail to the chief administrative officer of the initiating county, each invited municipality, if any, and each independent special district that received an initiating resolution; and

WHEREAS, on March 9, 2009, the City Council of the City of Cape Coral, Florida, passed Resolution 12-09, to respond to Lee County's initiating resolution; and

WHEREAS, Section 3 of Resolution 12-09 of the City of Cape Coral stated that "the Cape Coral City Council recognizes that Lee County has common objectives with its goal to enter into the interlocal service boundary agreement with each of the municipalities, and hereby invites the other four municipalities to the negotiations for the interlocal service boundary agreement [including but not limited to the Town of Fort Myers Beach, Florida].... and respectfully requests that Lee County coordinates the scheduling by having on the agenda of the negotiations only one or two topics for that meeting, with any topic discussed but not on the agenda automatically excluded from the interlocal service boundary agreement with a municipality not present, should Lee County attempt to treat that municipality as waiving its right to participate in the negotiation process;" and

WHEREAS, on March 16, 2009, the City Council of the City of Fort Myers, Florida, passed Resolution 2009-14 to respond to Lee County's initiating resolution ; and

WHEREAS, Section 3 of Resolution 2009-14 of the City of Fort Myers invited the Town of Fort Myers Beach and the other municipalities within Lee County, Florida to enter into negotiations with Lee County and the City of Fort Myers for an interlocal service boundary agreement and such Resolution also contained language similar to that set forth above in Section 3 of Resolution 12-09 of the City of Cape Coral, Florida; and

WHEREAS, on March 18, 2009, the City Council of the City of Bonita Springs, Florida, passed Resolution 09-22 to respond to Lee County's initiating resolution; and

WHEREAS, Section 4 of Resolution 09-22 of the City of Bonita Springs invited the Town of Fort Myers Beach and the other municipalities within Lee County, Florida to enter into negotiations with Lee County and the City of Bonita Springs for an interlocal service boundary agreement and such Resolution also contained language similar to that set forth above in Section 3 of Resolution 12-09 of the City of Cape Coral, Florida; and

WHEREAS, on March 17, 2009, the City Council of the City of Sanibel, Florida passed Resolution 09-032 to respond to Lee County's initiating resolution and accepted the invitation of the City of Cape Coral to participate in negotiations with the City and Lee County, Florida.

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

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 by reference 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 Council of the Town of Fort Myers Beach hereby ACCEPTS the invitation of the Cities of Bonita Springs, Cape Coral, and Fort Myers to enter into negotiations with such municipalities and Lee County, Florida.

Section 4. The Town Council of the Town of Fort Myers Beach hereby designates the Councilperson who is the liaison to the MPO as its initial representative, and the alternate liaison to the MPO as its alternate liaison to the negotiation process with Lee County and the negotiation process between the other municipalities and Lee County, as appropriate, for the interlocal service boundary agreement(s), if any, pursuant to Section 171.203(18), Florida Statutes. It is understood that such liaison will have the ability to utilize Town staff to attend any meeting scheduled by any party in this regard or perform any other assignment(s) hereunder.

Section 5. 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 6. 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 Babcock and seconded by Councilmember List and, upon being put to a vote, the result was as follows:

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

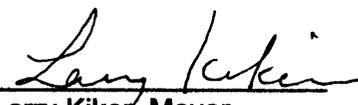
Herb Acken, Vice Mayor nay
Jo List, Councilmember aye

DULY PASSED AND ADOPTED this 6TH day of April, 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