

RESOLUTION NO. 01-18

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FOR THE PURPOSE OF ESTABLISHING THE TOWN'S LOCAL COMMUNICATIONS SERVICES TAX RATE IN ACCORDANCE WITH FLORIDA'S COMMUNICATIONS SERVICES TAX SIMPLIFICATION ACT, PROVIDING A CONFLICT CLAUSE; PROVIDING FOR SEVERABILITY AND A SAVINGS PROVISION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on July 1, 2000, Florida's Communications Services Tax Simplification Act (the "ACT") became law. The ACT established a new tax structure designed to treat communications service providers in a nondiscriminatory manner with respect to the compensation these providers have traditionally provided to local governments; and,

WHEREAS, the ACT directed the Legislature to set and adopt new tax rates to be applied under a new unified communications tax structure; and,

WHEREAS, the Legislative restructuring in the 2001 Legislative Session, resulted in a new Local Communications Services Tax, which is designed to apply equally to telephone service, cable service and wireless service providers and where such new rates shall become effective on October 1, 2001, without any action by the Town; and,

WHEREAS, the ACT created two Local Communications Services Tax rates, namely, a Conversion rate and a Maximum rate. The Conversion rate or "initial" rate varies for each local jurisdiction and was based upon the size of the communications tax base for each particular local jurisdiction and the revenues received by that local jurisdiction in 1999. The Conversion rate is known as the initial rate because it takes effect on October 1, 2001, without any formal action by the local government. The new Law also established a Maximum rate. The Maximum rate is a weighted average. The State assumed that each municipal had imposed upon communications providers all available taxes and fees at their highest possible levels under the previous tax structure.

The potential maximum revenue from this assumption was then totaled. The State then divided this potential maximum sum, by the sum total of the new taxable base for each municipal. The outcome was 5.1% as set forth in s. 202.19(2)(a), Florida Statutes (2001); and,

WHEREAS, pursuant to the ACT, a municipality that has an initial Conversion rate below the Maximum rate is authorized to adjust its Conversion rate upward to the Maximum rate as set forth in s. 202.19(2)(a), Florida Statutes (2001); and,

WHEREAS, pursuant to the ACT, for the period beginning on October 1, 2001 and ending on September 30, 2002, the established Maximum rate shall be deemed to be the sum of the Maximum rate established under s. 202.19(2)(a), Florida Statutes (2001), plus the difference between the Conversion rates set forth in ss. 202.20(1)(a) and (1)(b), Florida Statutes (2001); and,

WHEREAS, pursuant to the ACT, a municipality is authorized to adjust its Conversion rate upward as described above; and

WHEREAS, it is the intent of the Town to exercise its authority and adjust its new Local Communications Services Conversion rate upward as described above.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AS FOLLOWS:

Section 1.

1. The Town hereby acknowledges that on October 1, 2001, a new Local Communications Services Tax Conversion rate will go into effect without any formal action by the Town.

2. For the period beginning October 1, 2001, and ending September 30, 2002 only, the Town hereby invokes its authority, in accordance with ACT, to impose the Local Communications Services Tax at the maximum rate of 5.3%. The 5.3% Local Communications Services Tax imposed by the Town is the sum of the rate set forth in s.

202.19(2)(a), plus the difference between the Conversion rates set forth in ss. 202.20(1)(a) and (1)(b), Florida Statutes (2001), for the first year of implementation.

3. Section 202.20, Florida Statutes (2001) requires that the Town notify the Department of Revenue, by certified mail postmarked on or before July 16, 2001, as to whether the Town will elect to adjust its Conversion rate to the Maximum rate. This statutory section permits the Town to adjust its Local Communications Services Tax rate by ordinance or resolution. In accordance with this authority, the Town hereby elects to adopt this Resolution. Likewise, the Town hereby declares that this Resolution shall be its official notice to the Department of Revenue of the Town's election to levy the upward adjustment of the Local Communications Services Tax for the period beginning on October 1, 2001, and ending on September 30, 2002.

4. For the period beginning October 1, 2002, and continuing thereafter, the Town, hereby invokes its authority in accordance with ACT, to impose the Local Communications Services Tax rate of 5.1% as set forth in s. 202.19(2)(a), Florida Statutes (2001). The Town hereby declares that this Resolution shall be its notice to the Department of Revenue of the Town's election to levy the adjustment of the Local Communications Services Tax for the period beginning on October 1, 2002 and continuing thereafter unless and until expressly repealed or preempted.

Section 2. Repeal of Conflicting Resolutions. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 3. Savings Provision. All fees, charges and financial obligations previously levied and accrued pursuant to any County Resolution or contract, and any resolutions repealed pursuant to Section 2 above, shall continue to be due and owing until fully paid.

Section 4. Severability. The provisions of this Resolution are declared to be severable and if any section, sentence, clause or phrase of this Resolution shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Resolution but shall remain in

effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

Section 6. Effective Date. This resolution shall take effect immediately upon its adoption.

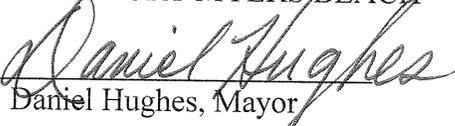
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

Daniel Hughes	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>
Terry Cain	<u>aye</u>
Howard Rynearson	<u>aye</u>

APPROVED this 25th day of June, 2001.

ATTEST:

By: 
Marsha Segal-George, Town Clerk

TOWN OF FORT MYERS BEACH
By: 
Daniel Hughes, Mayor

Approved as to form by:


Richard V.S. Roosa, Town Attorney