

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 95-2

A RESOLUTION ESTABLISHING AN EMERGENCY; DELEGATING TO THE LEE COUNTY STAFF THE PUBLIC ROAD MAINTENANCE AND LAND USE POWERS, DUTIES, AND AUTHORITY; AND PROVIDING INTENT OF DELEGATION; TERMINATION AND COSTS; AND AN EFFECTIVE DATE.

WHEREAS, the Town of Fort Myers Beach, Florida will assume all governmental, corporate and proprietary powers provided Florida municipalities by law as of December 31, 1995; and,

WHEREAS, in order to effectuate an orderly transition of governmental powers, duties, and services from Lee County for the protection of public health, safety and welfare of the citizens of Fort Myers Beach, the Fort Myers Beach Town Council has determined it necessary to delegate certain powers, duties and authority to the Lee county staff on a temporary basis as provided by the charter of the Town of Fort Myers Beach; and,

WHEREAS, it is the intent of the Fort Myers Beach Town Council to diligently work toward a permanent solution regarding the transition of governmental powers and duties with Lee county after December 31, 1995; and,

WHEREAS, an emergency exists because time is of the essence in providing temporary measures to ensure that an orderly transition is accomplished;

NOW, THEREFORE IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

SECTION 1. Establishing an emergency. This resolution is necessary to meet a public emergency affecting life, health,

property, and the public peace and is therefore exempt from notice requirements.

SECTION 2. Delegation of public road maintenance and land use powers, duties and authority to the Lee county staff. Upon the acceptance of the County Administrator of Lee County, Florida, beginning on January 1, 1996 and ending on March 31, 1996, the following powers and duties are delegated to the Lee County personnel:

- a. Public road right-of-way and easement monitoring and maintenance with the Town of Fort Myers Beach.
- b. All of the powers and duties of the Lee County Department of Community Development as they currently exist pursuant to the Lee County Comprehensive Plan and the Lee County Land Development Regulations, including the Lee County Land Development Code and Lee County Administrative Codes implementing said regulations.
- c. All of the powers and duties of the Lee County Hearing Examiner's Office with regard to code enforcement as they currently exist pursuant to the Lee County Land Development Code and Lee County Administrative Codes implementing said regulations.

SECTION 3. Intent of the delegation. This Delegation will result in the Fort Myers Beach Town Council exercising all of the

powers and duties of the Lee County Board of County Commissioners and the Lee County Hearing Examiner's Office as those powers and duties currently exist with regard to the Lee County Comprehensive Plan and Lee County Land Development Regulations as described herein, except for code enforcement powers and duties which will continue to be exercised by the Lee County Hearing Examiner's Office; and the Lee County Department of Community Development will continue to exercise the same powers and duties that it currently has.

SECTION 4. Termination and costs. This delegation of powers and duties and the acceptance of the delegation is understood to be made with the condition that it may be terminated at anytime by mutual agreement of the Fort Myers Beach Town Council and the Lee County Board of County Commissioners; or by either the Fort Myers Beach Town Council or the Lee County Board of County Commissioners upon the 30 days written notice to the other party; and, with the condition that the Town of Fort Myers Beach will reimburse Lee County and its employees for all costs and legal fees incurred by them in any litigation that may result from actions of the County or its employees pursuant to delegated powers and duties.

SECTION 5. Effective Date. This resolution shall become effective immediately upon adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Ted FitzSimons and

seconded by Council Member Garr Reynolds and, upon being put to a vote, the result was as follows:

Anita T. Cereceda	<u>aye</u>
Ted FitzSimons	<u>aye</u>
William (Rusty) Isler	<u>nay</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>nay</u>

DULY PASSED AND ADOPTED this 28th day of December, 1995.

ATTEST:

TOWN OF FORT MYERS BEACH

By: William A. Mills
William A. Mills, Town Clerk

By: Anita T. Cereceda
Anita T. Cereceda, Mayor

Approved as to form by:

Richard V.S. Roosa
Richard V.S. Roosa, Town Attorney

Accepted this 29th day of December, 1995.

Donald D. Stilwell
Donald D. Stilwell, County Administrator

Approved As
To Form.

By: Timothy P. Jones
County Attorney