

RESOLUTION AWARDING A FRANCHISE TO COMCAST CABLE
COMMUNICATIONS, INC.; PROVIDING COUNCIL ACTION;
GRANT; TERMS OF THE FRANCHISE; EFFECTIVE DATE OF
FRANCHISE AND SEVERABILITY
RESOLUTION NUMBER 02-05

WHEREAS, an application for a franchise has been submitted by COMCAST CABLEVISION CORPORATION OF CALIFORNIA, LLC, (“Company”) and reviewed by the Town Manager, and a notice of consideration of a cable franchise giving the name of the applicant and proposed service area has been published; and, WHEREAS, the notice invited objections to the establishment of a Cable System in the proposed service area and set a time and date certain, at least fourteen (14) days prior to the scheduled meeting date, for the consideration of the application at public hearing.

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

Section 1. Council Action. The Council after considering the information and criteria required by Ordinance 02-0~~2~~, and any other information it deemed appropriate in making a determination to issue a franchise made findings regarding the following:

- a. The economic impact upon private property within the franchise area;
- b. The public need for such a franchise, if any;
- c. The capacity of public rights-of-way to accommodate the Cable System;
- d. The present and future use of the Town rights-of-way to be used by the Cable System;
- e. The potential for disruption of future service by competition due to the presence of too many competing companies based on the number of potential subscribers in the proposed service area;
- f. The potential disruption to existing users of the Town to be used by the Cable System and the resultant inconvenience which may occur;
- g. The financial ability of the franchise applicant to perform and to make the necessary investment to erect, operate and maintain the Cable System;
- h. The experience of the applicant in the erection, operation and maintenance of a Cable system including compliance with local government rules, regulations and orders;
- i. The location and type of permanent facilities proposed to be constructed for the Cable System;
- j. The technical quality and completeness of the proposed plan for operation of the Cable System; indirectly but not limited to products and services to be made available and the level of customer service standards to be maintained;
- k. The likelihood that the applicant’s proposal will satisfy the future cable related needs and interests of the community; and
- l. The requisite legal, character, financial, technical and other qualifications necessary to construct, own and operate a cable television system.

Section 2. Grant. Upon acceptance by COMCAST CABLEVISION CORPORATION OF CALIFORNIA, LLC, within thirty days of the adoption of this resolution, the Town issues a franchise throughout it’s jurisdiction to COMCAST CABLEVISION CORPORATION OF CALIFORNIA, LLC, for a term of fifteen years.

Section 3. Terms of the Franchise. The terms and conditions of the franchise shall be as expressed in Ordinance 02-2, except as follows: ACCESS CHANNELS AND FACILITIES. Comcast Cablevision Corporation of California, LLC, shall be deemed to have complied with this section upon payment to the Town of the cost advanced for broadcast equipment and upon providing live broadcasts of all Town Council meetings as a public service.

Section 4. Effective Date of Franchise.

1. Any franchise granted pursuant to the provisions of this Ordinance shall become effective upon adoption.
2. Within thirty (30) calendar days after the adoption of this Resolution awarding of a franchise, or within such extended period of time as the Council in its discretion may authorize, the Franchisee shall file with the Council its written acceptance of the franchise, together with the insurance policies and bonding documents required by sections X and XI of Ordinance 02-03, and its agreement to be bound by and to comply with all requirements pursuant to the provisions of the Ordinance and the franchise. Such acceptance and agreement shall be acknowledged by the Franchisee before a notary public.

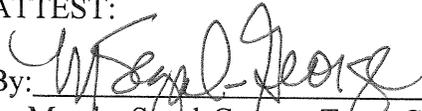
Section 5. Severability. If any part, section, subsection, or other portion of this resolution or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, such part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this resolution, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The Town declares that no invalid or prescribed provision or application was an inducement to the enactment of this resolution, and that it would have enacted this resolution regardless of the invalid or prescribed provision or application.

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

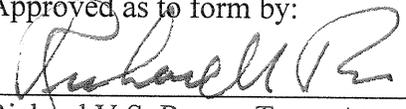
Howard Rynearson	aye
Daniel Hughes	aye
Bill Thomas	aye
W. H. "Bill" Van Duzer	aye
Terry Cain	aye

APPROVED this 14th day of January, 2002.

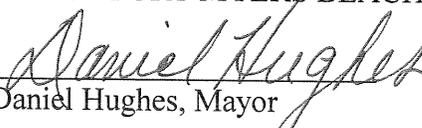
ATTEST:

By: 
Marsha Segal-George, Town Clerk

Approved as to form by:


Richard V.S. Roosa, Town Attorney

TOWN OF FORT MYERS BEACH

By: 
Daniel Hughes, Mayor

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 00- 41

WHEREAS, Diamond Annex has filed a request to rezone from Commercial Planned Development (CPD), Commercial C-1 and Single Family Residential (RS-1) to Commercial Planned Development (CPD) to permit a maximum of 1,700 square feet of retail, 30 hotel units and consumption on premises with the building not to exceed 40 feet in height, on 0.66 total acres of land and for a density transfer under Policy 4-C-8 of the Town Comprehensive Plan; and,

WHEREAS, the subject property is located at 1999 and 2001 Estero Blvd., Fort Myers Beach, Florida, and is described more particularly as in Section 19, Township 46 South, Range 24 East, Lee County, Florida; and,

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 19-46-24-W4-0090B.0020 and 19-46-24-W4-0090C.0010; and,

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on November 14, 2000, and they recommended that the Town Council deny the Applicant's request for a density transfer under Comprehensive Plan Policy 4-C-8 Density Transfer concerning the requested hotel rooms because the applicant has failed to show that the requested transfer of density would "clearly be in the public's interest" and failing such a finding the density request would violate the Comprehensive Plan.

WHEREAS, a hearing was held and the council considered the following criteria, whenever applicable:

- a. Whether there exist changed or changing conditions that make approval of the request appropriate.
- b. The testimony of any applicant.
- c. The recommendation of staff.
- d. The testimony of the public.
- e. Whether the request is consistent with the goals, objectives, policies and intent of the Town Plan.
- f. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.
- g. Whether the request will protect, conserve or preserve environmentally critical areas and natural resources.

- h. Whether the request will be compatible with existing or planned uses.
- i. Whether the request will cause damage, hazard, nuisance or other detriment to persons or property.
- j. Whether a requested use will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.
- k. Whether the transfer is clearly in the public interest.
- l. Whether the parcels affected are in close proximity to each other.
- m. Whether the transferred density is based upon allowable density levels of the donor property.

NOW THEREFORE BE IT RESOLVED THAT THE APPLICATION IS DENIED.

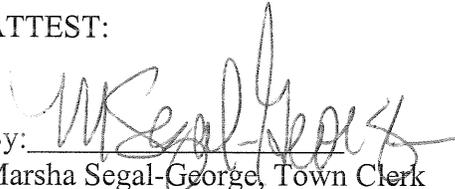
The foregoing resolution was adopted by the Fort Myers Beach Town Council upon being put to a vote, the result was as follows:

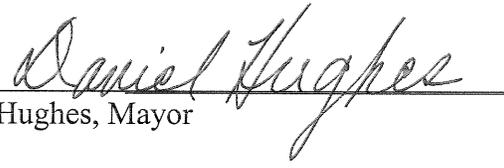
Dan Hughes	aye
Garr Reynolds	aye
Ray Murphy	aye
Terry Cain	aye

APPLICATION DULY ~~GRANTED~~/DENIED this 11th day of December, 2000.

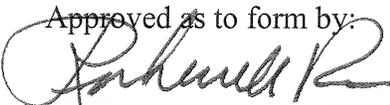
ATTEST:

TOWN OF FORT MYERS BEACH

By: 
 Marsha Segal-George, Town Clerk

By: 
 Dan Hughes, Mayor

Approved as to form by:


 Richard V.S. Roosa, Town Attorney