I certify that this is a true and accurate copy of the original.
Fort Myers Beach Town Clerk
Date: 09-14-09
By: [signature]

ORDINANCE NO. 09-03

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH ENTITLED "SEVENTH AMENDMENT TO THE FORT MYERS BEACH COMPREHENSIVE PLAN"; ESTABLISHING PURPOSE AND INTENT; AMENDING CHAPTER 1, INTRODUCTION; AMENDING CHAPTER 4, FUTURE LAND USE ELEMENT; AMENDING CHAPTER 5, COASTAL MANAGEMENT ELEMENT; AMENDING CHAPTER 6, CONSERVATION ELEMENT; AMENDING CHAPTER 7, TRANSPORTATION ELEMENT; AMENDING CHAPTER 8, UTILITIES ELEMENT; AMENDING CHAPTER 9, STORMWATER MANAGEMENT ELEMENT; AMENDING CHAPTER 11, CAPITAL IMPROVEMENTS ELEMENT; AMENDING CHAPTER 14, INTERGOVERNMENTAL COORDINATION ELEMENT; ADDING CHAPTER 16, PUBLIC SCHOOLS ELEMENT; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Chapter 166, *Florida Statutes*, empowers the Town Council of the Town of Fort Myers Beach to prepare and enforce a comprehensive plan for the future development and redevelopment of the town; and

WHEREAS, in the exercise of this authority the Town Council adopted an entirely new Fort Myers Beach Comprehensive Plan through Ordinance No. 98-14; and

WHEREAS, in the further exercise of this authority the Town Council has adopted a first set of amendments to the Fort Myers Beach Comprehensive Plan through Ordinance No. 00-15; a second set through Ordinance No. 01-07; a third set through Ordinance No. 02-07; a fourth set through Ordinance No. 03-13; a fifth set through Ordinance No. 04-10; and a sixth set through Ordinance No. 04-13; and

WHEREAS, the Town Council has determined that certain additional amendments to that plan are needed to implement its Evaluation/Appraisal Report and to comply with recent amendments to state law, and has therefore directed the necessary research and analysis in support thereof; and

WHEREAS, in consideration of these amendments, the Fort Myers Beach Local Planning Agency held public hearings on March 18, May 20, and November 18, 2008, and the Town Council held its transmittal public hearings on November 17 and December 15, 2008, at which time it voted to transmit the proposed amendments for review by state, regional, and local agencies; and

WHEREAS, the Florida Department of Community Affairs, by letter dated March 13, 2009, provided the town with its objections, recommendations, and comments; and

WHEREAS, pursuant to Section 163.3184, *Florida Statutes*, the Town Council scheduled its first public hearing to consider this ordinance on June 15, 2009, which was continued until July 20, 2009, and then held its second and final public hearing on this ordinance and these amendments on August 17, 2009.

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

SECTION 1. Incorporation of Recitals. The above "whereas" clauses are incorporated herein as though fully set forth.

SECTION 2. Purpose and Intent. This ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in, the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3217 and Chapter 166, *Florida Statutes*, as amended.

SECTION 3. Structure of the Fort Myers Beach Comprehensive Plan. The existing Fort Myers Beach Comprehensive Plan is published as a single volume that contains the adopted portions of the plan and a narrative that summarizes the data, analysis, and extensive research upon which each element of the plan was based. The current plan is organized into 15 chapters, one for each element of the plan. Only the following specific portions of that volume have been formally adopted as the Fort Myers Beach Comprehensive Plan:

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Fort Myers Beach Town Clerk
Date: 09-14-09
By:

All of Chapters 1, 2, and 15.
All goals, objectives, and policies found in Chapters 3 through 14.
The "Future Land Use Map" (Figure 16 in the Future Land Use Element).
The "Future Transportation Map" (Figure 18 in the Transportation Element).
The five-year schedule of capital improvements (Table 11-7 in the Capital Improvements Element)

The amendments being made by this Ordinance affect both the narrative and adopted portions of the plan, as specifically described below. For amendments to existing elements, language being added is underlined and language being deleted is ~~struck through~~.

SECTION 4. Application 2008-01-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended by completely revising the narrative portion of the Capital Improvements Element; by deleting the adopted five-year schedule of capital improvements (Table 11-7, found on Page 11-22) and by replacing it with a new Table 11-7; by amending Capital Improvements Policies 11-A-1, 11-A-3, 11-B-1, 11-B-5, 11-B-10, and 11-C-3; by adding Capital Improvements Policies 11-A-7 and 11-B-4.5. Exhibit A shows all changes being made in response to Application 2008-01-TEXT.

SECTION 5. Application 2008-02-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended by adding a new Public Schools Element to the comprehensive plan. This new Chapter 16 contains a narrative that summarizes the data, analysis, and extensive research upon which this element is based and an adopted portion of the element which consists of goals, objectives, and policies. This amendment also revises Capital Improvements Policy 11-A-7 and Intergovernmental Coordination Policy 14-A-4. Exhibit B shows all changes being made in response to Application 2008-02-TEXT.

SECTION 6. Application 2008-03-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding "repetitive loss" properties under the National Flood Insurance Program by revising the narrative of the Future Land Use and Coastal Management Elements; by amending Policy 4-D-1 of the Future Land Use Element; and by amending Policy 5-C-7 of the Coastal Management Element. Exhibit C shows all changes being made in response to Application 2008-03-TEXT.

SECTION 7. Application 2008-04-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding "pre-disaster buildback" by revising the narrative and by amending Policy 4-E-1 of the Future Land Use Element. Exhibit D shows all changes being made in response to Application 2008-04-TEXT.

SECTION 8. Application 2008-05-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding "guest units" by revising the narrative and by amending Policy 4-C-6 of the Future Land Use Element. Exhibit E shows all changes being made in response to Application 2008-05-TEXT.

SECTION 9. Application 2008-06-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding short-term lodging establishments by revising the narrative and by adding Policies 4-A-9 and 4-A-10 into the Future Land Use Element. Exhibit F shows all changes being made in response to Application 2008-06-TEXT.

SECTION 10. Application 2008-07-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding maintenance responsibility for Estero Boulevard by amending Policy 7-B-3 and Objective 7-E of the Transportation Element. Exhibit G shows all changes being made in response to Application 2008-07-TEXT.

SECTION 11. Application 2008-08-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding left-turns on Estero Boulevard at Times Square by revising the narrative and by deleting Policy 7-H-3 of the Transportation Element. Exhibit H shows all changes being made in response to Application 2008-08-TEXT.

SECTION 12. Application 2008-09-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding traffic impact analyses for new developments by revising the narrative and by amending Policy 7-J-2 of the Transportation Element. Exhibit I shows all changes being made in response to Application 2008-09-TEXT.

SECTION 13. Application 2008-10-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding timing for completion of a stormwater master plan by amending Objective 9-F of the Stormwater Management Element. Exhibit J shows all changes being made in response to Application 2008-10-TEXT.

SECTION 14. Application 2008-11/12-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended by revising the water supply narrative, amending Policies 8-B-1 and 8-C-6, and adding Policies 8-A-4 and 8-A-5 in the Utilities Element; by amending Policy 6-I-3 in the Conservation Element; by amending Policy 11-A-7 in the Capital Improvements Element; and by amending Policy 14-A-5 in the Intergovernmental Coordination Element. Exhibit K shows all changes being made in response to Application 2008-11/12-TEXT.

SECTION 15. Application 2008-13-TEXT. The Fort Myers Beach Comprehensive Plan is hereby amended regarding the state's new definition of "coastal high-hazard area" by revising the narrative of the Coastal Management Element and by adding Policy 5-A-6 to the Coastal Management Element. Exhibit L shows all changes being made in response to Application 2008-13-TEXT.

SECTION 16. Application 2008-14-MAP. The Fort Myers Beach Comprehensive Plan is hereby amended regarding the state's new definition of "coastal high-hazard area" by adding a map to the Future Land Use Map series, by amending Policy 4-B-2 of the Future Land Use Element, and by amending Chapter 1 to indicate that this new map is an adopted part of the plan. Exhibit M shows all changes being made in response to Application 2008-14-MAP.

SECTION 17. Severability. If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever beheld invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

SECTION 18. Effective Date. This ordinance shall become effective immediately upon adoption. However, the comprehensive plan amendments contained herein shall not take effect until the date a final order is issued by the Florida Department of Community Affairs or the Administration Commission finding the amendments to be in compliance in accordance with Chapter 163.3184, *Florida Statutes*.

The foregoing ordinance was enacted by the Town Council upon a motion by Councilmember Babcock and seconded by Councilmember List and, upon being put to a vote, the result was as follows:

Larry Kiker, Mayor	aye	Herb Acken, Vice Mayor	aye
Tom Babcock	aye	Jo List	aye
Bob Raymond	absent		

DULY PASSED AND ENACTED this 17th day of August, 2009.

ATTEST:

BY: _____
Michelle Mayher, Town Clerk

Approved as to legal form and sufficiency:

BY: _____
Anne Dalton, Esquire, Town Attorney

TOWN OF FORT MYERS BEACH

BY: _____
Larry Kiker, Mayor

I certify that this is a true and accurate copy of the original.
Fort Myers Beach Town Clerk
Date: 09-14-09
By: _____

Application #: 2008-01-TEXT

Description: Update the Capital Improvements Element to comply with new statutory requirements, including the annual update to the five-year schedule of capital improvements

Pages to be changed: Proposed changes are attached; they affect nearly every page of this element.

Discussion in E/A Report (adopted on Jan 16 '07): *From Page 64–65:* "C. Capital Improvements Element Updates

"New legislation in 2005 legislature strengthened the "financial feasible" requirement for capital improvement programs. "Financial feasibility" is now defined in state statutes. The existing requirement for annual updates of the comprehensive plan's five-year schedule of capital improvements has been strengthened by adding penalties for non-compliance; the procedural requirements for this update have been reduced. The comprehensive plan must be modified to comply with the new requirements by December 1, 2007. *[NOTE—the statute has been amended to change this date to December 1, 2008]*

"The comprehensive plan has been updated five times to revise its five-year schedule of capital improvements (see page 74 of this report)."

Additional discussion: This element has become very outdated. The attached draft contains a complete revision, in addition to making the necessary changes to comply with the 2005 state legislation. For details about the requirements of the new legislation, please refer to these publications:

- www.dca.state.fl.us/fdcp/dcp/publications/AnnualUpdateGuideCIE81606.pdf
- www.dca.state.fl.us/fdcp/DCP/publications/CIEbpm.pdf

Action by LPA: During a public hearing on March 18, 2008, the LPA recommended that the Town Council approve this element with a number of clarifying changes (those changes were later incorporated into this report). The vote was 6 to 0; Alan Mandel was absent. The minutes of the public hearing are attached.

Updates since LPA hearing: This element has been further updated since the LPA public hearing to reflect the latest information available from the 2008/2009 budget process, including a revised five-year schedule of capital improvements.

Action by Town Council: During a public hearing on November 17, 2008, the Town Council voted unanimously to transmit this amendment for state review.

DCA Objection D-11: *"The proposed amendments do not revise the Capital Improvements Element to establish concurrency management system requirements for water supply, transportation, and schools that are consistent with Sections 163.3180(2)(a and c) and 1623.3180(13)(e), F.S."*
"Capital Improvements Element Policy 11-B-5 (existing policy) establishes requirements for the Town's concurrency management system. Policy 11-B-5 allows public facilities for transportation and schools to meet concurrency if the necessary facilities are in place and available to serve the development at the time of the issuance of the certificate of occupancy.

- *Policy 11-B-5 is inconsistent with Section 163.3180(2)(c), F.S., because Policy 11-B-5 does not ensure that transportation facilities needed to serve new development shall be in place or under actual construction within 3 years after the local government approves a building permit or its functional equivalent that results in traffic generation.*
- *Policy 11-B-5 is inconsistent with Section 163.3180(13)(e), F.S., because Policy 11-B-5 does not ensure that adequate school facilities will be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent."*

DCA Recommendation: *"Revise Capital Improvements Element Policy 11-B-5 to address concurrency for transportation consistent with Section 163.3180(2)(c), F.S."*
"Revise Capital Improvements Element Policy 11-B-5 to address concurrency for schools consistent with the requirements Section 163.3180(13)(e), F.S."

Response to DCA: This objection and recommendation do not identify any specific shortcoming with Policy 11-B-5, yet they insist that this policy be modified.

The only hint in either statement may be the statutory references about new transportation and school facilities needing to be "in place or under actual construction within 3 years." Policy 11-B-5 does not allow a 3-year grace period, which is a leniency which is now authorized by *Florida Statutes*. Nothing in that statutory revision implies that a local government *must* offer this grace period, merely that it would now be legal for them to do so (and to offer a 1-year grace period for parks/recreation).

To avoid a legal dispute with DCA over this minor matter, Policy 11-B-5 is now proposed to be amended to add the statutorily-authorized grace periods.

DCA Objection D-12: *"The Capital Improvements Element update to the Five-Year Schedule of Capital Improvements is not supported by appropriate data and analysis addressing the public facilities (transportation, sanitary sewer, solid waste, parks and recreation, and stormwater/drainage) that are needed to maintain the adopted level of service standards through to fiscal year 2012/13."*

DCA Recommendation: *"Support the amendment with data and analysis addressing the five-year projected operating level of service of the public facilities and identify the need for any public facilities improvements that are to meet the adopted level of service standards. If capital improvements are needed to public facilities in order to achieve and maintain the adopted level of service standards, then revise the Five-Year Schedule of Capital Improvements to include financially feasible public facility projects that are needed to achieve and maintain level of service."*

Response to DCA: This analysis is found on Pages 11-15—11-22. No capital improvements are required to achieve or maintain the adopted level of service standards, so no revisions are needed to the Five-Year Schedule of Capital Improvements.

Proposed Final Action: The Town Council should adopt this revised amendment, as described above, as part of Ordinance 09-03.

NOTE: Minor arithmetic errors have been corrected in Tables 11-5 and 11-7, and new changes to the potable water level of service in the Utilities Element are now reflected here in Policy 11-B-1.

Final Action: The Town Council adopted this revised amendment on August 17, 2009, as part of Ordinance 09-03. (Text shown in red is new or has changed since the initial transmittal of this amendment in January 2009.)

CAPITAL IMPROVEMENTS ELEMENT

INTRODUCTION

This Capital Improvements Element evaluates the public facilities proposed in all other elements of this comprehensive plan. Specifically, this element:

- identifies various parties with fiscal responsibility for proposed capital improvements;
- analyzes the town's fiscal capability to carry out capital improvements;
- establishes financial policies for capital improvements; ~~and~~
- presents a schedule for funding and construction that balances concurrency requirements with other capital improvement that are identified in this plan~~.~~; and
- meets the additional financial feasibility requirements adopted by the state legislature in 2005.

"Capital improvements" are projects to build or improve major assets that have long-term value, such as buildings, roads, and parks.[1] This element identifies revenue sources that could be used for capital improvements, and presents criteria for setting priorities among the proposed projects. (All projects to be funded must be consistent with the comprehensive plan.)

[1] *"Capital improvement" means physical assets constructed or purchased to provide, improve or replace a public facility and which are large scale and high in cost. The cost of a capital improvement is generally nonrecurring and may require multi-year financing. For the purposes of this rule, physical assets which have been identified as existing or projected needs in the individual comprehensive plan elements shall be considered capital improvements. [Rule 9J-5.003(12), FAC] See Policy 11-A-6 of this plan.*

This element provides the basis for creating a capital budget ~~updating a Capital Improvements Program (CIP~~ every year during the town's regular budget process. The capital budget for each year is the first year of a revised five-year Capital Improvements Program (CIP).

Like this element, the CIP will contain a balanced set of revenues and capital expenditures for the next five years. After adoption each year, the five-year list of projects in the new CIP will continue to be incorporated as an update to this element. This element has been previously updated five times to revise the five-year schedule of improvements:

Table 11-1 – Prior Updating of Five-Year Schedule of Improvements

Application Number:	***Adopting Ordinance:***	***Effective Date:***
2000-1-TEXT	00-15	11/21/2000
2001-1-TEXT	01-07	11/21/2001
2002-1-TEXT	02-07	11/15/2002
2003-1-TEXT	03-13	3/8/2004
2004-1-TEXT	04-13	5/3/2005

The process of preparing this element and the CIP allows the community to be involved in implementing this comprehensive plan. Information is made available to everyone regarding when and where public projects should be expected. This process results in a reasonable multi-year spending plan, with public monitoring of whether adopted levels of service are being met (through a concurrency management system, to be discussed below). This process forces priority-setting across the entire spectrum of possible projects, allowing a realistic evaluation of what the public wants and can afford.

FINANCIAL ISSUES AT FORT MYERS BEACH

~~Two~~ Twelve years after incorporation, many local policies are still evolving. ~~The emerging~~ Today's financial policies mainly reflect the promise of a "bare-bones" government that won the support of voters to create the town in late 1995. The intent was to increase local control with a minimum of duplication. The result has been a small government with few employees, a limited budget, and extensive "contracting out" of services to public and private entities, although this approach continues to be evaluated. The town has thus far been successful in its efforts to incubate and spin off initiatives rather than attempting to solve all problems with its own resources. The town's charter requires this enterprising approach because it severely limits public debt for capital improvements.

~~Even though the town government is still new, its vision for the future has evolved over nearly a decade. Previous governmental efforts included:~~

- ~~the Fort Myers Beach Land Use Plan Committee, which convened in 1989 and whose plan became Goal 18 of the Lee County Comprehensive Plan; and~~
- ~~the Estero Island Community Redevelopment Agency, under the auspices of Lee County, which created a redevelopment plan covered the entire island. Capital needs were refined, resulting in the new Times Square pedestrian plaza and colorful sidewalks and land acquisition for a community swimming pool.~~

~~The process of developing the town's first complete~~ Each refinement of a comprehensive plan allows an updated look at the timing and location of future public investments. Vacant developable land makes up less than 3% ~~only 8%~~ of the town's land area (down from 8% at the time of incorporation), and even the few vacant parcels have public services available. Therefore, future public investments will be providing additional services and planning for the inevitable redevelopment of many first-generation buildings as they deteriorate or become obsolete.

Strategic public investments can guide and stimulate private investment to help create the vision of the town's future as articulated in this comprehensive plan.

~~Prior to forming a municipal government,~~ Public services at Fort Myers Beach are ~~were~~ provided through a unique ~~an unusual~~ mix of public, for-profit, and voluntary entities, as discussed in the following sections.

Decentralized Service Providers

The town is served by several independent special districts, each with an independent elected board with its own taxing authority. These include the Fort Myers Beach Library District, the Fort Myers Beach Fire Control District, and the Fort Myers Beach Mosquito Control District. Solid waste collection is contracted out by Lee County to a private firm. Sanitary sewer is provided directly by Lee County. ~~Drinking water is provided by a private firm that operates under the authority of the Florida Public Service Commission.~~ Police protection is provided by the Lee County Sheriff. ~~Lee County DOT has agreed to maintain roads and drainage as requested (using a pre-determined fee schedule), and~~ Lee County ~~administers zoning and~~ issues building permits in accordance with an interlocal agreement. Animal control is also contracted out.

~~All of~~ These arrangements have proven generally satisfactory, although there are many opportunities for fine-tuning or alternatives. ~~The fire district has been through a turbulent period, with an outgoing chairman even recommending that the fire district merge with the town (the town's charter would require an affirmative vote of both the town council and the Fire District Board to do so).~~

~~After the town adopts this comprehensive plan, a new land development code will be required.~~ Since incorporation, Lee County has been administering much of the town's ~~the current~~ land development code under contract to the town~~.~~, an ~~This~~

arrangement that has been desirable to the town but which is now being reconsidered by both parties. ~~because of the reasonable cost and good continuity with the past; it has been acceptable to Lee County because the two codes vary only slightly. It would be much more difficult for the county to administer an entirely new code (at least initially), but the benefits of continuity plus the current economies of scale suggest that continued cooperation with Lee County would be in the town's best interest.~~

Potential Turn-Over of Lee County Facilities

~~Lee County has continued to operate most of its facilities within the town, but is now discussing the turn-over of at least some in the near future. The most immediate concerns are the town's responsibility to operate the new community swimming pool and the transition of responsibility for operating Bay Oaks community park and recreation center. The swimming pool will be built by the county using park impact fees, but the town, through the non-profit "Build-a-Pool Foundation," will be responsible for operating and maintaining the pool. The county may also wish to transfer maintenance of its other recreation facilities to the town, including the 46 water access points (36 to Gulf beaches and 10 to the Bay side).~~

~~Much of the maintenance of Bowditch Point Park, Lynn Hall Park, and the beach accesses is provided from tourist tax revenues. The tourist tax is a 3% rental fee assessed upon any living quarter (motel, house, apartment, or condo) rented for less than six months. Thirty-three percent of the total tourist tax revenues are dedicated to a fund that is used for beach and bay shoreline improvements and maintenance.~~

~~Another revenue source is metered parking at Lynn Hall Park (and potentially at the new parking lot at Bowditch Point). The county has considered this revenue as a user fee that offsets maintenance costs for that facility, based on the logic that all users (not just those who stay in lodgings) should help pay for this maintenance. Tourist taxes cover the gap between the actual cost of maintenance and the parking revenue, thus freeing up tourist tax money for other beach or shoreline projects.~~

~~If the town agrees to operate these parks and beach accesses, it should pursue a different user fee concept, one that allocates parking meter revenues for broader but related purposes. These could include community recreation facilities that serve visitors but are not subsidized by the tourist tax (such as additional beach access points), or improved mass transit to relieve peak-season traffic congestion caused by beach users.~~

Lee County ~~also~~ continues to maintain Estero Boulevard south of Times Square. This comprehensive plan and the subsequent streetscape plan by WilsonMiller contain~~s~~ many suggestions for improving the appearance and functioning of Estero Boulevard, but many ~~they may~~ would require the consent of and considerable funding from ~~of~~ Lee County. ~~If this consent is not forthcoming, the town could request the transfer of responsibility for Estero Boulevard to the town.~~ The Transportation Element identifies many of the costs, benefits, and revenues that would be involved in ~~such~~ a transfer of maintenance responsibility.

The recreational facilities at Bay Oaks, which have been operated by Lee County with cost-sharing by the town, are being transferred to the town. The proposed effective date is October 1, 2009.

POSSIBLE SOURCES OF ADDITIONAL REVENUE

~~To date, capital improvements on Estero Island have been provided by Lee County, Florida DOT, special districts, and private companies such as Florida Cities Water Company. The town now has the opportunity and the responsibility to select and pay for its own projects.~~ In addition to the current revenue sources (which will be described later in this element), the following revenue sources could be used by the town for capital improvements.

Potential Changes to Impact Fees

[pre-existing text has been moved to "Existing Revenue Sources"]

The town now collects transportation impact fees from new development. These fees are collected when building permits are issued and are used for capacity-enhancing transportation improvements.

Under the current fee schedule, replacing an existing building does not trigger the payment of a new fee. Once the remaining vacant property at Fort Myers Beach has been built upon, the current transportation impact fee program will cease to be a viable funding source for further transportation improvements even though it is apparent that the current transportation system is highly inadequate.

The proposed streetscape improvements to Estero Boulevard would effectively add some capacity to Estero Boulevard, which makes these improvements eligible for transportation impact fees. If a program were devised to charge impacts fees for redevelopment of property, not just for new development, this could become a viable funding source for the streetscape program.

Capacity is enhanced by streetscape improvements in many ways: sidewalks and bike paths get pedestrians out of the roadway and encourage alternate travel modes; drainage improvements increase capacity during storm events; transit pullouts and/or a dedicated transit lane would reduce vehicle traffic by promoting an alternative mode; and underground utilities are necessary to provide the space in a limited right-of-way for the other improvements.

Because these capacity enhancements are difficult to quantify using normal engineering methods, the existing methodology would have to be updated. The model would be an "improvements-driven" impact fee. Cost estimates for capacity-enhancing elements of the streetscape program would be divided by projected redevelopment activities to determine the gross impact fee cost per unit of development.

For instance, if the town expects to get 50 new residential units each year and another 50 older homes are replaced with much larger units, that combined might be the equivalent of 100 new residential units if the impact fees were based on dwelling size. At an average per unit fee of $5,000, that would amount to $500,000 annually. Add another $450,000 for nonresidential redevelopment, and transportation impact fees might bring in $950,000. These amounts can be compared to collections from current impact fees, which are summarized in Figure 1.

The town could also consider other types of impact fees to pay for capital improvements that are necessitated by additional development or redevelopment.

Stormwater Utility Fees

A stormwater utility is a branch of municipal government whose sole purpose is stormwater management. Its funds usually come from a separate fee that is charged to owners of developed property, based on a share of the benefit each will receive from the utility. These fees cannot be used for any other purpose. The base fee is often around $3/month for a typical home. A fee of this level covers stormwater planning, routine maintenance, and minor improvements to the system. Higher fees could

provide funding for the drainage portion of improvements to Estero Boulevard.

The Stormwater Management Element discusses the benefits of establishing a stormwater utility at Fort Myers Beach. That element suggests establishing a monitoring program, an inventory of drainage facilities, and an evaluation (in the form of a stormwater master plan) ~~by the year 2000~~ that will determine the nature of potential improvements to the stormwater system. Such evaluation will provide guidance to the town in determining the appropriate source of funds and mechanism, such as a stormwater utility, to begin carrying out selected stormwater improvements.

Utility (Public Service) Taxes

Utility taxes, also known as public services taxes, are paid by end users of specific services. These optional taxes may be levied by a municipality at rates up to 10% of the cost of electricity and water. They may also apply to telecommunications, but the 10% maximum applies to only a narrow range of these services; for instance, telephone service is capped at 7%.

One of the greatest difficulties in moving existing power lines underground is the difficulty in finding an equitable way to pay for the substantial one-time cost. A temporary surcharge could be placed on the sale of electricity within town limits, with these funds dedicated to moving the power lines along Estero Boulevard underground. This would be a logical funding source because of the link between electricity usage and improvements to the local electrical distribution system.

An FPL surcharge might bring in $600,000 annually. Residents of unincorporated Lee County already pay such a surcharge. The town could formally agree to sunset this surcharge after 10 to 12 years when sufficient funds have been collected to place all of the Estero Boulevard power lines underground.

One characteristic of this method is that year-around residents would pay a greater share of the cost than if the same dollar amount was raised through ad valorem taxes (which are levied on the value of property, whether or not the property is occupied throughout the year). Unlike ad valorem taxes, the surcharge would not be deductible on federal income tax returns.

The City of Fort Myers levies this tax at the maximum rate of 10% of the cost of electricity, water, and bottled gas and 7% for telecommunications. Proceeds are pledged to repay the city's revenue bonds. The City of Cape Coral, Bonita Springs, and Sanibel do~~es~~ not charge any public services taxes.

~~In 1997 the Sanibel City Council adopted an ordinance imposing a public services tax with rates identical to those in Fort Myers. The proceeds were to be used to expand the Sanibel sewage collection system to serve the entire island and improve the treatment plant. The Sanibel ordinance included a clause that would repeal the tax if voters approved an ad valorem tax of up to 0.75 mills for the same purpose in a 1998 referendum. Voters overwhelmingly approved the referendum, effectively canceling the public services tax.~~

In 1997 the Town of Fort Myers Beach had proposed to implement a public services tax (then referred to as a utility tax) at a rate of 3% of the cost of electricity, and has an ordinance in place (but set at 0%). The Town Council placed the 3% rate before the voters in a November 1997 referendum. This tax, which would have generated about $260,000 annually for land acquisition, was defeated~~.~~ at the polls and has not been reconsidered since that time; however, it still remains an option for the town.

Dedicated Ad Valorem Millage

For many years Lee County has collected separate ad valorem millages that are dedicated solely to capital improvements. For instance, since 2000 the county has collected ad valorem taxes from all property owners at the following rates:

- FOR GENERAL CAPITAL IMPROVEMENTS: 0.5124 per $1,000 of taxable value of property.
- FOR CONSERVATION ACQUISITIONS ONLY: 0.5000 per $1,000 of taxable value of property (for "Conservation 20/20")

Since incorporation, the town has decreased its annual property tax levels from 1.47 mills to 0.7093 mills. Rising property values and fiscal prudence have made these decreases possible. By not continuing to lower the tax rate as property values rise, additional funds could be generated and dedicated to, for example, improving Estero Boulevard. For instance, if the town had not decreased its millage from 0.85 to 0.75 in 2005, an additional $250,000 would have been generated that year alone.

The town has the same ability as Lee County to establish a separate millage for capital improvements. A similar alternative would be to dedicate a fixed portion of ad valorem taxes to a specific project such as improvements to Estero Boulevard. In this manner, that portion of the millage would have no reason to exist once the specific improvements have been completed.

Franchise Fees

Franchise fees are very similar to utility (public service) taxes. Both ultimately appear on local customers' utility bills. Utility tax rates can float each year by action of the town council, whereas franchise fees are set at fixed rates for the duration of the franchise period.

~~Additional~~ Franchise fees ~~are a potential source of revenue to the town; they~~ are charged to the service provider for the right to provide certain services and use town rights-of-way. Franchise fees are negotiated with various private companies (as authorized by Section 180.14 of the *Florida Statutes*) and are based on a percentage of the service provider's gross revenue.

In August of 1997 Lee County ~~recently~~ added a 3% franchise fee for electric service which ~~is anticipated to~~ now yields $7.5 ~~$4~~ million annually for the unincorporated area ~~(countywide)~~. The town has never entered into a similar franchise agreement; electric bills within the town do not reflect a franchise fee and the town receives no revenue from Florida Power and Light. If the town were to charge the same 3% franchise fee as Lee County, it would yield over $400,000 per year; at 6%, it would yield over $800,000.

The Cities of Fort Myers, Cape Coral, and Sanibel charge franchise fees for electricity~~, telecommunications, cable television,~~ and garbage hauling. At present, the only franchise fee~~s~~ charged by the town are for ~~cable television and~~ garbage hauling, which yields about $80,000 per year.

Parking Fees

~~Currently,~~ The town collects revenue from parking meters ~~under the bridge and at the small public lot between Wings and La Playa~~. Revenue from these meters during FY 07/08 ~~the current year~~ is expected to be $380,000 ~~$22,000. The Community Design Element calls for creating additional on-street parking downtown, all of which would produce additional revenue if the spaces are metered.~~ These meters serve to manage parking demand so that store employees and beachgoers are directed to long-term parking spaces rather than using the prime on-street parking that is reserved for shorter-term use. The meters are also a minor source of revenue after paying the substantial costs of administration and enforcement, but their main purpose is parking management.

~~Community~~ Redevelopment Agency

Prior to incorporation, Estero Island was one of the designated community redevelopment areas of the Lee County CRA. The CRA had a list of community capital projects to be funded by its "tax-increment fund" (TIF). Each year this fund received the incremental increases in ad valorem revenue caused by increases in the tax base since the CRA program began. In all, $2,590,387 million from this source was used on Estero Island.

After incorporation ~~However~~, TIF dollars were ~~are~~ no longer ~~being~~ set aside by the county. The Estero Island CRA had funds ~~$256,534~~ remaining in its budget after completion of the Times Square project; the county later agreed to ~~town has requested that Lee County~~ transfer unused ~~these~~ funds to the town. These funds were used to complete ~~for use in~~ the next phase of that project, the improvements to Old San Carlos Boulevard.

In place of the county's CRA program, the town decided to establish ~~has considered establishing~~ a Downtown Redevelopment Agency (DRA) which would encompass just the Times Square area down to the Diamondhead Resort (rather than the entire island). ~~While lingering issues with the county are being resolved, the town will begin implementing further downtown improvements as spelled out in the Community Design Element. Special districts can be established to aid in funding (see discussion below).~~ A redevelopment plan was drafted around 1998 to initiate this process, but the incremental increases in ad valorem revenue have apparently never been set aside.

If the town still wishes to pursue a DRA, it would establish a new tax-increment fund to capture the increases in tax revenues generated after the new district is formed. ~~In order to capture the increment for the year beginning January 1998, an ordinance freezing the tax base would have to be adopted by June 30, 1998.~~ The town council would create a Redevelopment Trust Fund by ordinance (which must also must provide for funding the remainder of the redevelopment plan). However, a small DRA would generate relatively little revenue, even with the funds diverted from Lee County. ~~if county approval were obtained.~~ The town can set aside its own ~~the same~~ revenue~~s~~ through its budgeting process, avoiding the administrative structure of a DRA, if it is willing to forgo the funds that would be diverted from Lee County and any other taxing authorities that are subject to tax increment financing.

Special Assessments ~~Districts~~

The town council can establish a special assessment ~~district~~ within a defined area of the island to fund maintenance and/or capital improvements there, analogous to a county~~. The council is considering this concept, often called a~~ Municipal Service ~~Taxing or~~ Benefit Unit~~, for use in the downtown area~~. ~~It~~ A special assessment could fund continuing maintenance of existing and future improvements, or could be used to build specific capital improvements such as underground utilities or sidewalks. Special assessments ~~districts~~ are also ideal for specialized projects such as maintenance dredging of private canals.

There are two requirements for the imposition of a valid special assessment. First, the property assessed must derive a special benefit from the improvement or service provided; and second, the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.

Special assessments can take two forms, or be a combination of the two. *Taxing* districts usually pay for on-going maintenance with a levy based on the assessed value of property. *Benefit* districts usually pay for one-time capital improvements, based on the acreage or front-footage of properties being benefitted by the improvement. The council can establish these assessments ~~districts~~ without a referendum.

User Fees

User fees may be charged for miscellaneous services ranging from recreational programs to photocopying. Such fees are intended to offset costs rather than provide revenue to support other governmental functions. User fees will pay for some of the cost to operate the Bay Oaks Recreation Center and the new swimming pool. User fees rarely pay for capital improvements.

Borrowing

The town charter greatly restricts borrowing. It requires the voters to approve, by referendum, the following types of borrowing:

- entering into lease purchase contracts or any other unfunded multi-year contracts for the purchase of real property or the construction of any capital improvement, the repayment of which extends in excess of thirty-six months (unless mandated by state or federal governing agencies); and
- the issuance of revenue bonds.

Revenue bonds are bonds financed by those directly benefitting from the improvements (for example, a toll bridge or a metered parking lot). The debt is paid off through charges to users of the public facilities built with bond proceeds.

A charter amendment on the November 1997 ballot would have removed restrictions on the use of bonds for the purchase of land or capital improvements, but the amendment was defeated.

In 2007, voters authorized refinancing of the town's water utility in accordance with charter requirements.

Lee County Transportation Funds

Lee County still maintains Estero Boulevard from Times Square to Big Carlos Pass and is very aware of its overcrowding and general poor condition. The drainage portion of improvements to Estero Boulevard is very considerable. A partnership with Lee County is possible whereby Lee County would pay the costs of drainage retrofits, road surfacing, and sidewalks/bike paths while the town pays for other costs.

Resort Taxes

Some towns with substantial tourist economies are allowed to tax visitor spending to pay for traveler-related services whose costs would otherwise inundate the community. For instance, the State of Montana allows such local governments to levy a 3% tax on goods and services typically sold to tourists (if approved in a local referendum); this tax applies to motels, campsites, restaurants, fast-food stores, and bars, but not to groceries.

Resort taxes are similar in some ways to tourist development taxes, such as the 5% ~~3%~~ tax that Lee County charges on transient rentals. However, tourist development taxes can only be used for statutorily defined purposes which do not include most local services used by visitors. Tourist development taxes are often used for tourism promotion, convention centers, and beach-related improvements.

Certain communities in Florida are allowed to levy a form of resort tax. For instance, Miami Beach charges 2% on retail sales of food and beverages, although it may not spend these funds for many of the purposes allowed in Montana. The Town of Fort Myers Beach cannot impose even this limited resort tax without its own special act of the state legislature (or a narrowly drawn general law such as used by Miami Beach, as found in Chapter 67-930, *Laws of Florida* as amended).

EXISTING REVENUE SOURCES

A basic principal of capital budgeting is that revenues and expenditures must be balanced (even though initial revenues may be obtained through borrowing). Therefore, until such time as any ~~since many~~ of the additional revenue-generating ideas suggested above have ~~not yet~~ been implemented, the ~~first~~ five-year schedule of capital projects is limited to that which can be paid for through existing revenue sources. This Capital Improvements Element will be updated annually to reflect additional funding sources as they are implemented, and to reflect corresponding changes to the list of expenditures. Major existing revenue sources~~,~~ and funding mechanisms currently available to the town for capital improvement financing~~,~~ are described below. These funds are available for capital improvements only to the extent they are not needed for annual operating expenses.

Ad Valorem Property Taxes

Ad valorem taxes are an annual tax on the value of real estate (and some personal and business property). Assessed values are determined each year by the county property appraiser. The rate of taxation, or "millage rate," is determined annually by each governing body with taxing authority. The millage rate is the amount to be paid for each $1,000 of value (i.e. a millage rate of 1.0 would result in $1 for each $1,000 of assessed value).

11-2a — Trends in Assessed Valuation
~~(Based on~~ Fort Myers Beach, 1996 – 2008 ~~Fire District), 1992 – 96~~

	-----Millage-----		~~*Fort Myers Beach Fire District (Total Assessed Valuation)*~~	*Annual increase in taxable value*	*Percent annual increase*	*Total ad valorem taxes levied*
	Town	*Street Lighting District*	*Taxable value*	*(calculated)*	*(calculated)*	
~~1992~~			~~$1,179,274,640~~	~~$42,410,230~~	~~3.7%~~	
~~1993~~			~~$1,241,651,740~~	~~$62,377,100~~	~~5.3%~~	
~~1994~~			~~$1,275,742,700~~	~~$34,090,960~~	~~2.7%~~	
~~1995~~			~~$1,314,595,750~~	~~$38,853,050~~	~~3.0%~~	
~~1996~~			~~$1,353,858,150~~	~~$39,262,400~~	~~3.0%~~	
~~Average~~				~~$43,398,748~~	~~3.6%~~	
1996	1.0604	0.0357	$1,097,095,620			$1,163,360
1997	1.0961	—	$1,149,535,220	$52,439,600	4.8%	$1,260,006
1998	1.0961	—	$1,192,180,910	$42,645,690	3.7%	$1,306,750
1999	1.0961	—	$1,289,215,850	$97,034,940	8.1%	$1,413,109
2000	1.0961	—	$1,387,116,900	$97,901,050	7.6%	$1,520,419
2001	1.0400	—	$1,616,283,120	$229,166,220	16.5%	$1,680,934
2002	1.0400	—	$1,888,027,310	$271,744,190	16.8%	$1,963,548
2003	1.0000	—	$2,291,140,270	$403,112,960	21.4%	$2,291,140
2004	0.8500	—	$2,656,675,540	$365,535,270	16.0%	$2,257,324
2005	0.7498	—	$3,063,418,220	$406,742,680	15.3%	$2,296,951
2006	0.6096	—	$3,780,475,940	$717,057,720	23.4%	$2,304,578
2007	0.6053	—	$3,910,189,400	$129,713,460	3.4%	$2,366,838
2008	0.7093	—	$3,443,135,660	($467,053,740)	-11.9%	$2,442,216

Cities are limited to 10 mills of ad valorem taxation by Chapter 166.211 of the *Florida Statutes*. Assessed values are reduced by any exemptions allowed by law (such as the $25,000 homestead exemption and the "Save Our Homes" exemption, and exemptions for widows and widowers, disability, government-owned, and non-profit owned property, including churches). This reduced value is known as the taxable value, which is multiplied by each millage rate levied by a local government to yield the total ad valorem tax bill to each property owner.

The total taxable value of property in the town for 2008 is $3.4 billion. ~~1997 is $1,150,357,320.~~ The current millage rate is 0.7093, which yields about $2.4 million each year in ad valorem taxes. ~~1.0961, which is equivalent to the 1996/97 rate of 1.0604 plus 0.0357 mills for the Fort Myers Beach street lighting district (which was previously charged as a separate line item on the Lee County tax bill).~~

State law requires that revenues be budgeted at only 95% of the full amount, assuming that only 95% of revenues may actually be collected during the year. ~~At this rate, the estimated tax revenue from ad valorem taxes for fiscal year 1997/98 will be $1,197,861.~~ About 44% ~~42%~~ of the town's recurring revenues come from ad valorem taxes. Ad valorem taxes can be used to fund both operating costs and capital projects.

Table 11-2a shows recent trends in assessed valuation for the ~~Fort Myers Beach Fire District, which includes the entire~~ Town of Fort Myers Beach. ~~plus land along San Carlos Boulevard to about Pine Ridge Road. The average increase in assessed valuation has been 3.6% since 1992. Based on this history, this plan's forecasts of future ad valorem revenue will be based on a 3% annual increase.~~ Given the recent extreme volatility in real estate values and tax-reform efforts by the state legislature, no increase in ad valorem revenue should be assumed for future years; further decreases are very possible.

The millage rate in recent years has been dropping at a rate roughly corresponding to increases in taxable value, yielding adequate funds to run the general governmental functions of the town. In 2008, the opposite occurred; taxable values dropped and the millage rate was increased. These minor annual adjustments to the millage rate will never generate sufficient funds for substantial capital improvements.

Impact Fees

[relocated from "Potential Sources of Additional Revenues"]

~~For many years Lee County has required~~ The town requires the payment of impact fees before issuing building permits. Separate fees are paid to build community parks, regional parks, fire and emergency medical services, schools, and transportation facilities ~~roads~~ that are needed to keep up with the demands of growth. ~~Upon incorporation, the town required the payment of these fees, but there are still questions over their ultimate use.~~ Table 11-2b shows the current impact fee rates, and Figure 1 ~~Table 11-1~~ shows the total impact fees collected by type and by year since Fiscal Year 00/01. ~~incorporation.~~

Table 11-2b — Selected Impact Fee Rates (as of September 18, 2006)

	SF home	MF unit	Hotel room	Retail (per 1,000 sq. ft.)	Restaurant (per 1,000 sq. ft.)
Transportation	$2,971	$2,059	$2,237	$5,063	$6,504
Parks – regional	$631	$518	$318	$0	$0
Parks – community	$788	$591	$363	$0	$0
Fire protection	$610	$478	$501	$476	$476
Schools	$4,309	$1,704	$0	$0	$0
TOTAL:	$9,309	$5,350	$3,419	$5,539	$6,980

Actual charges are slightly higher, reflecting 3% administrative charges

~~**Table 11-1 — Impact Fees Paid From Incorporation Through 10-31-97**~~

~~*Type*~~	~~*Amount Paid*~~
~~Roads~~	~~$314,725~~
~~Community Parks~~	~~$105,698~~
~~Regional Parks~~	~~$35,398~~
~~Fire/EMS~~	~~$10,675~~

~~Road and community park impact fees are traditionally spent in the same districts where they are collected. All community park fees collected through the year 2001 in district 4 will be used to buy land and build the town's new swimming pool. Until completion of the pool, the current arrangement should stay in place.~~

~~Regional park impact fees are spent county-wide, but as a practical matter they have been used disproportionately along the coast for beach parks. The county should be asked to turn over regional park impact fees to the town so they could be earmarked towards acquisition of an additional beach access point at the south end of the island.~~

~~Road impact fees are more difficult. Since no further road improvements are planned by Lee County on Estero Island, the impact fees collected there will always be used on the mainland.~~ Although mainland roads do benefit town residents, the major impacts are the reverse, with mainland traffic causing acute congestion at Fort Myers Beach during the peak season. Lee County only allows its road impact fees to build new roads (and occasionally bike paths); it will not allow other types of transportation improvements such as mass transit. Since incorporation, the town has modified its transporation ~~should modify the current road~~ impact fee program in favor of a system that can better offset the impacts of further growth, given the town's intractable transportation problems. Instead of limiting expenditures to new roads, the program ~~could be expanded to cover~~ now covers capital improvements such as improved mass transit, better sidewalks, off-island parking areas, and elevating roads to prevent flooding. (However, no operating costs can be paid with any impact fees.)

Fire impact fees are transferred directly to the independent fire district. ~~s, and EMS impact fees are used only for county-wide emergency medical services. The incorporation of the town will not change the way these funds are used.~~ School impact fees are being collected by Lee County and are transferred directly to the school district.

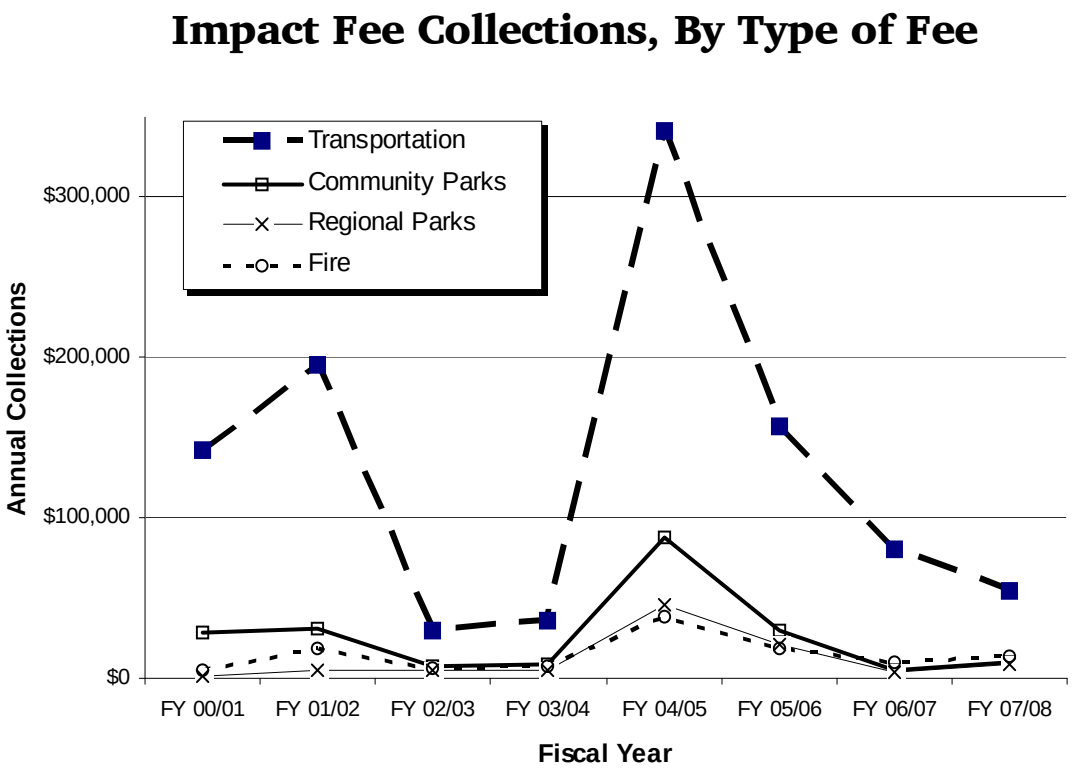


Figure 1

State Revenue Sharing

The state collects certain revenues that are then shared with municipalities and counties. Local shares are distributed according to various formulas found in state statutes. The three major state shared revenue programs are described below.

Municipal Revenue Sharing Program ~~***Trust Fund***~~

This fund comes from 1.34% of the state sales and use tax collections, ~~32.4% of the tax on each pack of cigarettes,~~ plus the 1-cent municipal gas tax, plus 12.5% ~~25%~~ of the state alternative fuel decal user fee. The share for municipalities is determined by a complex formula. For the 08/09 ~~97/98~~ fiscal year ~~for the town~~, the forecasted amount for Fort Myers Beach will be $118,383 ~~$88,355, budgeted at 95% as $83,935.~~ About 26.6% ~~35%~~ of this amount results from the municipal gas tax and can be used only for transportation purposes (construction or maintenance), including transportation-related public safety activities.

Local Government Portion of Sales Tax

Revenue for this fund comes from 8.814% ~~9.653%~~ of the state sales tax, which is shared by counties and cities and is distributed using a complex ~~by a population-based~~ formula. Forecasted sales tax revenue for the town is $516,079 ~~$406,068~~ for fiscal year 08/09. ~~97/98, budgeted at 95% as $385,760.~~ These funds are to be used for municipal-wide programs or for municipal utility tax relief (to replace declining ad valorem revenues if applicable). These funds can also be pledged for bond repayment or used directly for capital projects.

Communication Services Tax

The 2000 Florida Legislature restructured seven prior taxes on communications services into a single program. The current tax applies to cable television and telephone service (both cellular and conventional phones). Municipalities set the rate for a portion of this tax; the current rate set by the town is the maximum allowable (5.22%). The state Department of Revenue collects the taxes and remits the relevant portion monthly. The yield to the Town of Fort Myers Beach has been increasing each year, from $430,000 in FY 04/05 to an expected total of $665,029 in 08/09.

Municipal Financial Assistance Trust Fund

This fund generated ~~generates~~ approximately 2 cents per pack of cigarettes (5.8% of the state tax on each pack of cigarettes) distributed to the municipalities by a ratio of each city's population (Cape Coral, Fort Myers, Sanibel, and Fort Myers Beach) to their combined population. These distributions were discontinued in 2000 when this fund was dissolved. ~~Estimated cigarette tax collections for the town for F.Y. 97/98 are $33,022, budgeted at 95% as $31,370. These funds are considered to be general revenue and can be used for any public purpose.~~

County Revenue Sharing

Local Option Gas Taxes

Lee County has a 6-cent local option tax on motor fuel which is shared with the municipalities according to a negotiated percentage specified in interlocal agreements. These funds may be used for general transportation purposes. In addition, the county has imposed a separate additional 5-cent tax on motor fuel, which it distributes according to the same percentages. This portion of the gasoline tax may be used only for transportation expenditures consistent with each municipality's adopted comprehensive plan. The 1996 ~~current~~ distribution among Lee County's cities was ~~is~~ as follows:

- Town of Fort Myers Beach 2.3%
- City of Sanibel 5%
- City of Fort Myers 14%
- City of Cape Coral 23.3%
- Unincorporated Lee County 55.4%

After the incorporation of Bonita Springs, an agreement was reached to share these revenues with the new city using a 50/50 split between population and centerline miles of roads. This same formula was applied to Fort Myers Beach in 2002, reducing the town's percentage from 2.3% to 1.27%. The county committed to using the differential (1.53%) to improve transportation at Fort Myers Beach for at least four years, through FY 07/08. These funds are currently being used by Lee County to pay for the first phase of analysis and design for Estero Boulevard improvements under a contract awarded in December 2007 to McMahon Associates. The interlocal agreement that established these shares expired on September 30, 2008 and is being renegotiated.

The distributed amount to the town for F.Y. 07/08 was $432,245. ~~97/98 will be $608,766, budgeted at 95% as $578,300. There is no rational reason for Fort Myers Beach's share to be less than half that of Sanibel. The town is attempting to renegotiate the agreement for a fairer apportionment of revenue.~~

~~Occupational Licenses/Permits/Fees~~

~~For this fiscal year the town has budgeted $22,300 for this category. Of this amount, $16,800 is from permits to use the right-of-way for tables in Times Square, $3,000 is from jet ski and parasail licenses, and $2,000 is from occupational licenses.~~

~~Occupational licenses may be required in addition to otherwise-required professional or contractor's licenses, for doing business within a certain jurisdiction. Lee County imposes an occupational license tax, and is required to apportion these revenues (after administrative expenses and any credit given for municipal license taxes) between the unincorporated area of the county and the incorporated municipalities according to a formula based on population. Currently the Town of Fort Myers Beach share would be 2.31% of the total. Although the town does not currently require local businesses to have a second occupational license to operate within its boundaries, it could do so. Proceeds of this second license would be retained by the town (except for administrative deductions).~~

~~Because the town does not have its own police force, it does not receive any revenue from fines and forfeitures.~~

~~Counties and cities charge fees for the processing and issuance of building permits, development orders, and rezonings. Most jurisdictions charge fees in an attempt to recover some of their costs of providing these services; however, subsidies from general revenues are often provided. Currently the town contracts with Lee County for these services. Should the town choose to provide its own services and charge fees, such fees would help cover costs, as they do now, but will not provide a source of revenue that can be used for other purposes.~~

~~An annual license tax is levied on all mobile homes and park trailers that are not otherwise subject to ad valorem taxes. The taxes are collected by county tax collectors but distributed based on where the units are located. Fifty percent of this tax goes to the county school board and the remainder to the municipality where the units have been placed. Current records show about 250 mobile homes and trailers in the Town of Fort Myers Beach.~~

~~About 38% of the fees paid for alcoholic beverage licenses will returned to the town, in accordance with Section 561.342 of the *Florida Statutes*. This tax is collected and distributed by the state Division of Alcoholic Beverages and Tobacco.~~

Franchise Fees

The Town of Fort Myers Beach currently receives 5.5% of gross receipts as a ~~charges~~ franchise fees for ~~cable television and~~ garbage hauling. Budgeted revenues for FY 08/09 are $80,000. ~~(at 95% of estimates) are $50,566 and $20,250 respectively.~~

Interest Earnings

The town ~~will also~~ invests ~~and reinvest~~ any surplus public funds in its control in any of the several options for investment allowed

by Chapter 166.261 of the *Florida Statutes*. For F.Y. 08/09 ~~97/98~~, the town is budgeting $150,000 ~~$85,000~~ in earnings from interest.

Grants

Since incorporation, the town has been successful in obtaining numerous ~~the following~~ grants:

- Main Street Program — consists of a $10,000 grant and technical assistance to establish a Main Street program in the downtown area.
- Florida Communities Trust — a grant of $1,031,100 to acquire the Mound House on Connecticut Street. Over $2 million in additional grants have been obtained to restore the house and landscape and to create a walk-in archaeological exhibit.
- Approximately $60,000 in boater improvement funds through WCIND for public docks at Bowditch, the Mound House, and under the bridge; ~~and~~ $16,000 for boating enforcement; and $14,000 for a canoe/kayak landing at the Mound House.
- About $200,000 of state tourism funds for the extension of the Times Square streetscape project.
- Approximately $2,300,000 from the state and county to acquire the beachfront property of James and Ellie Newton and $500,000 from the TDC for improvements to create a beach park.

Because of the uncertainty inherent in the grant process, proposed grants, like tax increases that are subject to a referendum, are not considered "committed funding sources." If a capital improvement is needed to maintain an adopted level of service during the first three years, its funds must be committed.[2]

If a proposed improvement is not needed to maintain a level of service, or is not scheduled until the fourth or fifth year, it may be funded by a "planned" funding source. Proposed grants or tax increases that are subject to a referendum may be considered as planned funding sources.[3] Once the grant or tax increase is approved, it then becomes a "committed funding source" and can be used for required capital improvements in the first three years.

If a proposed capital improvement is not required to achieve or maintain an adopted level of service, proposed grants or proposed tax increases may be listed as the funding source.

Grant proceeds may also be included as revenue being carried forward ("transfer from fund balance") if a grant was awarded in a prior year but has not yet been fully expended. Capital improvements funded by such grants may be included anywhere on the five-year schedule of improvements (provided the timing is consistent with the terms of the grant).

Miscellaneous Revenues

In addition to the existing revenue sources described above, the town also receives miscellaneous revenues from sources such as these:

- Local business tax (occupational licenses)
- Mobile home licenses
- Alcoholic beverage licenses
- Permit fees
- Fees for zoning requests
- Assessments for capital projects
- Harborage user fees

Each miscellaneous revenue source is identified in the town's annual budget. For purposes of this capital improvements element, they are totaled as "Miscellaneous Revenues" and should be budgeted at 95% of the prior year's actual miscellaneous revenue.

[2] *9J-5.003(29), Florida Administrative Code*

[3] *163.3177(3)(a)5., Florida Statutes*

PUBLIC FACILITIES PROPOSED IN THIS PLAN

This section summarizes public facility needs identified in other elements of this comprehensive plan. Public facility needs are divided into two categories: those that are required to maintain concurrency, and others that fulfill a policy requirement and/or are recommended in other elements of this plan. At present, there are no public facility needs related to concurrency.

The following section addresses concurrency requirements by:

- identifying public facilities needed to maintain concurrency;
- analyzing the general fiscal implications of existing deficiencies and future needs;
- estimating the cost of capital improvements needed to mitigate existing deficiencies, replacements, and needs caused by new growth;
- discussing public educational and health care facilities, as required by Rule 9J-5.016; and
- discussing the concurrency process.

After the concurrency discussion, *optional* capital improvements that are suggested throughout this comprehensive plan will be reviewed.

Public Facilities Required for Concurrency

State law requires all local governments to ensure that public facilities and services will be available "concurrent" with the impacts of new development. This concurrency requirement has been mandatory since its adoption in 1986 through the "Local Government Comprehensive Planning and Land Development Regulation Act" (Chapter 163, Part II, Sections 163.3167 through 163.3215).

To measure compliance, "level-of-service" standards are established to ensure that adequate public facilities will be available for existing and future development. These standards indicate the acceptable capacity per unit of demand (typically per person, or per dwelling unit). In the respective elements of this comprehensive plan, the following quantifiable levels of service have been established:

Potable Water ~~Utility~~ Level-of-Service Standards~~s~~

POLICY 8~~6~~-B-1: *"The minimum acceptable level-of-service standards for utility services within the Town of Fort Myers Beach shall be:*

for potable water service: available supply, treatment, and delivery capacity of 260 gallons per day per equivalent residential connection (ERC), and delivery of potable water at a minimum pressure of 20 pounds per square inch (psi) at the meter anywhere in the system.

~~*for sanitary sewer service: available capacity to collect, treat, and dispose of wastewater of 175 gallons per day per equivalent residential connection (ERC).*~~

~~*for solid waste disposal service: the ability to collect and manage 7 pounds of municipal solid waste per person per day."*~~

Initial Status: The Utilities Element indicates that there is adequate facility capacity for water supply~~, wastewater treatment, and solid waste disposal,~~ and that adequate services can be expected to be available to serve new development through build-out of Fort Myers Beach.

Fiscal Implications and Estimated Cost of Capital Improvements: Expansion costs are charged directly to users by the service providers; there are no additional costs that will become the responsibility of the town.

Measurement Method: "...available capacity is based on the difference between the total permitted plant design capacity of the [former] Florida Cities Water Company's water system south of the Caloosahatchee and the peak daily flow through this system during the previous calendar year. This difference,

measured in gallons per day, is available to serve new development in the service area." *(LDC § 2-48(a)(1))*

Status in 2008: The Florida Cities water system in unincorporated Lee County has been purchased by Lee County and fully integrated into the Lee County Utilities system of five major water production plants. The town acquired the water distribution system on Estero Island and now purchases water in bulk from Lee County Utilities.

The former Florida Cities water plant south of the Caloosahatchee is known as the Green Meadows water plant and has a design capacity of 10.5 million gallons per day (MGD). Water production was 9.0 MGD in 2004, 9.6 MGD in 2005, 9.5 MGD in 2006, 7.4 MGD in 2007, and is projected to be 7.5 MGD in 2008. Major capacity increases in three other Lee County Utilities' water plants are either under construction or complete which will reduce or eliminate the need for Lee County Utilities to purchase water from neighboring utilities to meet peak demands anywhere in the system. *(SOURCE: Lee County Concurrency Report, October 2008)*

There have been no reports of water pressure falling below 20 psi except immediately following Hurricane Charley in August 2004.

Implications for Future Capital Improvements: No capital improvements are needed during the next five years to maintain the adopted level of service for potable water. The town intends to make significant upgrades to the aging water distribution system in the coming years but these improvements are not required to achieve or maintain the adopted level of service.

Sanitary Sewer Level-of-Service Standard

POLICY 8-B-1: *"The minimum acceptable level-of-service standards for utility services within the Town of Fort Myers Beach shall be:*

for sanitary sewer service: available capacity to collect, treat, and dispose of wastewater of 175 gallons per day per equivalent residential connection (ERC).

Initial Status: The Utilities Element indicates that there is adequate facility capacity for wastewater treatment and that adequate services can be expected to be available to serve new development through build-out of Fort Myers Beach.

Fiscal Implications and Estimated Cost of Capital Improvements: Expansion costs are charged directly to users by the service providers; there are no additional costs that will become the responsibility of the town.

Measurement Method: "...available capacity is based on the difference between the total permitted plant design capacity of the Lee County Utilities' Fort Myers Beach/Iona-McGregor service area and the peak month's flow during the previous calendar year (divided by the number of days in that month). This difference, measured in gallons per day, is available to serve new development in the service area." *(LDC § 2-48(a)(2))*

Status in 2008: The permitted design capacity of the Fort Myers Beach sewer plant is an average of 6.0 MGD. It operates slightly below capacity, currently at 5.8 MGD during the busiest day in 2007 and expected to rise about 0.1 MGD per year. *(SOURCE: Lee County Concurrency Report, October 2008)*

Implications for Future Capital Improvements: Although flow rates are high on the peak day due to infiltration of rainwater into the sewer system, Lee County Utilities appears to have more than adequate sewer capacity during the next five years to avoid any need to expand its treatment plant.

Solid Waste Disposal Level-of-Service Standard

POLICY 8-B-1: *"The minimum acceptable level-of-service standards for utility services within the Town of Fort Myers Beach shall be:*

for solid waste disposal service: the ability to collect and manage 7 pounds of municipal solid waste per person per day."

Initial Status: The Utilities Element indicates that there is adequate facility capacity for solid waste disposal and that adequate services can be expected to be available to serve new development through build-out of Fort Myers Beach.

Fiscal Implications and Estimated Cost of Capital Improvements: Expansion costs are charged directly to users by the service providers; there are no additional costs that will become the responsibility of the town.

Measurement Method: "...available capacity is based on the difference between the current capacity of Lee County's waste-to-energy plant and current peak usage of that facility. This difference, measured in tons per day, is available to serve new development county-wide." *(LDC § 2-48(a)(3))*

Status in 2008: Lee County's waste-to-energy plant has been operating at its guaranteed capacity since 1999. Construction on a third combustion unit was completed in August 2007, which has increased capacity dramatically. Recent countywide data indicates that the average person generates 8 to 10 pounds of sold waster per day, higher than the 7-pound figure that was previously believed to be accurate and was used to set the level of service for solid waste. *(SOURCE: Lee County Concurrency Report, October 2008)*

Implications for Future Capital Improvements: No capital improvements are needed during the next five years to maintain the adopted level of service for solid waste disposal.

Stormwater Level-of-Service Standards

POLICY 9-D-1: *"Until completion of the evaluation under Policies 6-A through 6-F, interim levels of service are hereby established for protection from flooding to be provided by stormwater and roadway facilities:*

1) During a 3-day rainfall accumulation of 13.7 inches or less (3-day, 100-year storm as defined by SFWMD), one lane of evacuation routes should remain passable (defined as less than 6 inches of standing water over the crown). Emergency shelters and essential services should not be flooded.

2) During a 3-day rainfall accumulation of 11.7 inches or less (3-day, 25-year storm as defined by SFWMD), all lanes of evacuation routes should remain passable. Emergency shelters and essential services should not be flooded.

3) During coastal flooding of up to 4.0 feet above mean sea level, all lanes of evacuation routes should remain passable. Emergency shelters should not be flooded."

Initial Status: There is adequate capacity in the stormwater system to meet these interim levels of service (which are admittedly minimal).

Analysis: The Stormwater Management Element suggests that the town address flooding problems and water quality problems resulting from inadequately treated run-off. Flooding occurs from two different sources: one that occurs when the Gulf of Mexico and Estero Bay rise to unusual heights due to strong on-shore winds; and flooding caused by stormwater resulting from a conveyance system which is inadequate to get excess water off of the island and into the Gulf or Bay.

That element suggests a number of steps:

- an immediate program to monitor the environmental impacts of stormwater runoff;
- the use of sound management practices to reduce contaminant levels in stormwater;

- modifying land development regulations to improve the handling of stormwater;
- preparing an inventory of all existing drainage facilities and poorly drained areas; and
- evaluating, by the year 2000, the nature of potential improvements to the system and the adoption of better levels of service.

Based on the outcome of this evaluation, the town could establish a dedicated funding source ~~within two additional years~~ to begin carrying out the selected stormwater improvements. This funding source may include revenue from gas taxes, ad valorem collections, stormwater utility fees, or other recurring sources.

Fiscal Implications and Estimated Cost of Capital Improvements: No fiscal impact is required to meet the interim level-of-service standards. However, there will be significant costs to improve the current conditions. The costs for the monitoring program and implementation of sound management practices can be reduced through the use of knowledgeable volunteers and potential grant funding for innovative projects. The cost of a stormwater master plan to evaluate the feasibility of drainage options ~~could run from $100,000 to $200,000 for the northern third of the island alone.~~ is budgeted in the five-year schedule of capital improvements ~~includes these items~~ (see Table 11-7 below) and this master plan has recently gotten under way. The evaluation in a stormwater master plan will determine costs associated with selected improvements and provide guidance as to the appropriate source(s) of funds to implement improvements. If this should result in the establishment of a stormwater utility, it may then become a self-supporting enterprise.

Measurement Method: "...available capacity is based on the reported depth that evacuation routes, emergency shelters, and essential services were flooded during or after storms of varying intensities. Depths of flooding shall be as reported by emergency services personnel, town, or county officials, or other reliable sources." *(LDC § 2-48(a)(4))*

Status in 2008: Rainfall from a 3-day, 25-year storm has not occurred since this standard was adopted. Severe coastal flooding occurred during Hurricane Charley in August 2004; it significantly surpassed the 4.0-foot standard and made Estero Boulevard impassable during the storm (and for several days thereafter due to heavy accumulations of sand).

Implications for Future Capital Improvements: No capital improvements are needed during the next five years to maintain the adopted level of service for stormwater. The town has been and will continue to make significant upgrades to the town's drainage system in the coming years but these improvements are not required to achieve or maintain the adopted level of service.

Recreation Level-of-Service Standard

POLICY 10-D-3: *"The town adopts the following standard for community parks: for each 7,500 permanent residents, 1 centrally located recreation complex that includes 2 ballfields, 2 tennis courts, outdoor basketball courts, play equipment, an indoor gymnasium, and community meeting spaces. Programming shall address all age groups and encompass active recreation, physical improvement, and social, educational, and cultural activities."*

Initial Status: This level-of-service standard for community recreational facilities has been met. A major enhancement, an outdoor swimming pool, was constructed by ~~is in progress with construction budgeted through the~~ Lee County ~~Capital Improvements Program~~. The county ~~recently~~ acquired the land from multiple owners, ~~at an estimated cost of $760,000. Funds for~~ Design, ~~and~~ permitting, and ~~of the pool ($200,000) are budgeted in Fiscal Year 97/98, with~~ construction were valued at $1,295,000 ~~expected the following year~~. These facilities will serve the recreational needs of the community through build-out.

Fiscal Implications and Estimated Cost of Capital Improvements: Fiscal impacts to the town are related to the long-term operation and maintenance of the community recreation center and swimming pool as those responsibilities are turned over to the town from the county. ~~As discussed in the Recreation Element, the town is working with the county to fairly~~ For many years, the town and the county have divided the cost to operate the Bay Oaks Recreation Center~~, and is considering additional revenue sources to offset operating costs, including user fees~~. Lee County wants the town to take over management of this facility as early as October 1, 2009.

In an interlocal agreement with the county, the town ~~has~~ agreed to operate and maintain a public ~~the~~ swimming pool. ~~The volunteer "Build-a-Pool Foundation" has committed to the town council to be responsible for raising the funds to cover the operation and maintenance, through concessions, special events, and user fees.~~ The annual cost to operate and maintain the pool (water, heat, chemicals, and staff salaries) for FY 08/09 is expected to be $235,200, to be offset by $70,000 in revenue. ~~has been estimated by Lee County at $80,000, but the county's current operating costs for their five community pools averages $120,000 each.~~

Measurement Method: Available capacity is based on the existence of specified park facilities, including a recreation complex, ballfields, tennis courts, basketball courts, play equipment, gymnasium, community meeting spaces, and programming of activities. *(LDC § 2-48(a)(5))*

Status in 2008: The adopted standard described the facilities in existence in early 1998. All of those facilities and their programming remain in place, plus the outdoor community swimming pool next to Bay Oaks Park. In addition, the Mound House has been acquired and is in operation at this time, and Newton Park is expected to be in operation in the near future.

Implications for Future Capital Improvements: No capital improvements are needed during the next five years to maintain the adopted level of service for recreation.

Transportation Level-of-Service Standard

POLICY 7-I-2: *"The peak capacity of Estero Boulevard's congested segments is 1,300 vehicles per hour. The minimum acceptable level-of-service standard for Estero Boulevard shall be that average monthly traffic flows from 10:00 A.M. to 5:00 P.M. during each month do not exceed that level for more than four calendar months in any continuous twelve-month period. Measurements from the permanent count station at Donora Boulevard shall be used for this standard."*

Status: This level-of-service standard is currently being met. In 1996, the 1,300-vehicle average was exceeded only one month; in 1997, during no months.

Fiscal Implications and Estimated Cost of Capital Improvements: This plan's capital improvements for transportation are directed to sidewalks, bike paths, pedestrian crossovers, and shared parking facilities. Each of these will have some impacts on traffic circulation, but no numerical correlation can be deduced.

Measurement Method: "...available capacity is based on actual traffic counts from Lee County's permanent count station on Estero Boulevard near Donora Boulevard. The total counts in both directions for the seven hours between 10:00 A.M. and 5:00 P.M. shall be summed for all days in each month. These sums shall be divided by seven and by the number of days in that month, yielding an average traffic flow (measured in vehicles per hour) during the peak period for that month. The amount that each month's average is below the level-of-service standard of 1,300 vehicles per hour is the amount of capacity available to serve additional demand." *(LDC § 2-48(a)(6))*

Status in 2008: Traffic counts on Estero Boulevard near Donora Boulevard have not increased since the Comprehensive Plan was adopted in late 1998. Between October 1995 and March 1998, there had been only a single month when average hourly counts exceeded 1,300 vehicles per hour between 10:00 A.M. to 5:00 P.M. (SOURCE: Transportation Element, page 7–25)

Measurements of congestion are discussed at length in Appendix B to the Transportation Element. As a supplement to that analysis, Figure 2 shows average daily traffic data on Estero Boulevard since 1996, based on official counts from Lee County DOT. Traffic counts are taken on a quarterly basis at Avenida Pescadora and Virginia Avenue and then extrapolated to annual averages; those figures are highly dependent on the days chosen for the actual counts because traffic levels vary considerably based on tourism demands. Traffic counts have been taken every hour of every day since 1996 at Donora Boulevard; the Donora figures are the most reliable indicator of actual traffic on Estero Boulevard and are shown with a thicker line in Figure 2.

Several cautions are in order when reviewing the Donora traffic counts. First, they are annual averages rather than peak-season traffic levels. Second, unlike typical traffic counts, they cannot be used to assess the need to widen a road at the count location. Traffic levels at Donora actually reflect the serious congestion from Town Hall to the Sky Bridge; traffic toward the bridge backs up this far during busy periods, and traffic from the bridge cannot reach Donora without being slowed dramatically by the same congestion.

Figure 2 indicates that traffic levels at Donora are essentially unchanged since 1996. This has occurred despite modest additional growth within the town from vested development rights and from continued increases in tourism in the region. The reason is that peak traffic levels on Estero Boulevard are not controlled by traffic demand, but by the capacity of the busiest portion of the road, with its frequent driveways and side streets, shortage of available parking, and heavy pedestrian crossing volumes. Increasing traffic demand at Fort Myers Beach causes longer waiting periods for motorists rather than higher traffic counts.

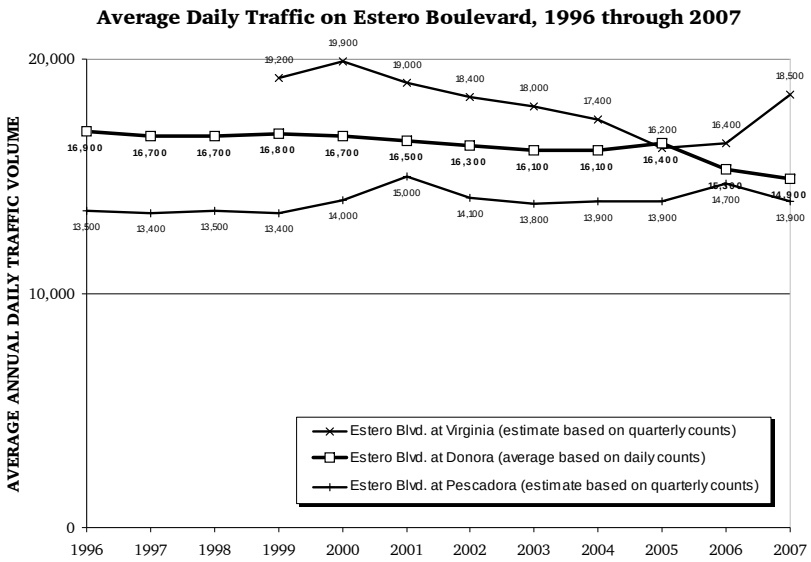


Figure 2

Implications for Future Capital Improvements: No capital improvements are needed during the next five years to maintain the adopted level of service for transportation. The numerous transportation improvements in this element's five-year schedule of capital improvements will improve the quality of life at Fort Myers Beach but are not required to achieve or maintain the adopted level of service.

Public School Level-of-Service Standard

POLICY 16-B-1: *"The minimum acceptable level-of-service standards for public schools within the Town of Fort Myers Beach shall be:.*

i. Elementary Schools: 100% of permanent capacity as adjusted by the school district annually to account for measurable programmatic changes.
ii. Middle Schools: 100% of permanent capacity as adjusted by the school district annually to account for measurable programmatic changes.
iii. High Schools: 100% of permanent capacity as adjusted by the school district annually to account for measurable programmatic changes.
iv. Special Purpose Schools: 100% of permanent capacity as adjusted by the school district annually to account for measurable programmatic changes.

"Permanent capacity" of each of the four types of schools means the combined capacity for all schools of that ~~each~~ type that are located in the school district's South Student Assignment Zone, as depicted in Figure 3 of this element. (Multi-zone magnet schools and special centers are excluded.) Permanent capacity is the capacity of permanent buildings as determined by the Florida Inventory of School Houses, 2006 edition, published by the Florida Department of Education's Office of Educational Facilities. "Measurable programmatic change" means a change to the operation of a school and measurable capacity impacts including, but not limited to, double sessions, floating teachers, year-round schools, and special educational programs.

Initial Status: (see Public Schools Element for details)

Fiscal Implications and Estimated Cost of Capital Improvements: The Public Schools Element demonstrates that the School District has adequate funding to continue meeting this standard.

Measurement Method: (as described in Policy 16-B-1)

Status in 2008: The Public Schools Element contains data demonstrating the this standard is being met.

Implications for Future Capital Improvements: The capital improvements needed during the next five years to maintain the adopted level of service for public schools are contained in the School District's Five-Year District Facilities Work Program, as updated each September and as referenced in Policy 11-A-7 of this element.

Concurrency Management System

Minimum levels of service as described above must be met at all times in order for further building permits to be issued. This Capital Improvements Element must contain a policy requiring the town to maintain the adopted level-of-service standards for roads, sanitary sewer, solid waste, drainage, potable water, and parks, and provide a financially feasible plan which demonstrates that the adopted standards will be maintained (Rule 9J-5.0055 *FAC*). A new requirement to adopt a similar standard for public schools was added by the state in 2005.

To comply, this plan requires that development orders or building permits be issued by the town subject to the condition that, at the time of the issuance of a certificate of occupancy, the necessary facilities and services must be in place and available to serve the development being authorized, or are guaranteed to be in place through an enforceable development agreement pursuant to Section 163.320 *FS* or through an agreement or development order pursuant to Chapter 380 *FS*. Certain exceptions are described in Policy 11-B-5.

This plan's concurrency management system is ~~will be~~ implemented through § 2-48–2-49 of the land development regulations which specifies ~~will specify~~ monitoring procedures and links them to the issuance of development orders and building permits.

The town has never failed to meet any of its adopted levels of service, and no shortfalls are anticipated during future planning timeframes. Thus the town's five-year schedule of capital improvements contains only improvements that the town has chosen to make to improve public services and quality of life.

Other Public Facilities Proposed in This Plan

When this plan was originally adopted in late 1998, ~~Because~~ the town had ~~is~~ already reached ~~at~~ about 85% of its build-out population~~,~~. Additional development has been mostly ~~will be~~ in the form of infill on the remaining vacant parcels or by replacing existing buildings, plus the unanticipated final phases of Bay Beach which have been constructed after the circuit court ruled against the town's contention that the final phases were inconsistent with this plan and were not vested. ~~There are now 7,710 dwelling units;~~

Only 112 of the additional 1,028 dwelling units ~~more are~~ forecasted in 1998 for ~~by~~ build-out remain to be constructed (see the Future Land Use Element and the 2007 Evaluation and Appraisal Report). Most other development activity within the town is the voluntary replacement of existing structures which are often aging, obsolete, or just an economic underutilization of valuable land.

For instance, a single home built across two full-size lots can be demolished and replaced by two homes. In other cases, a single-story commercial building may be replaced by a two- or three-story building with residential units on the upper floors. The town's strict density limitations for new construction and its restrictions on locations for commercial buildings together limit the number of additional units that can be created in this way.

The remaining undeveloped land totals only about 28 acres of vacant platted lots and is distributed fairly evenly throughout the entire town. Most of these lots will accommodate only one single-family home, although a small number will accommodate two or more dwellings.

The entire town is within developed service areas, so there is no ability to control the location or timing of growth through providing or withholding public services. Therefore, the timing and location of capital improvements will emphasize new optional services and improving current service (such as discussed above under stormwater and transportation).

Capital investment by the public sector can be a strong catalyst for private redevelopment to help achieve the town's vision for the future. This comprehensive plan identifies several redevelopment areas including Times Square, the entire length of Estero Boulevard, the civic center surrounding Bay Oaks, the south end near the Villa Santini Plaza, and an interconnected system of pedestrian and bicycle pathways. These and others are discussed in their respective elements and summarized below, referenced by policy number. In addition, other elements of this plan identify more direct measures to implement the town's vision. Those measures *which have a capital component as the town's responsibility* are summarized and referenced by policy number in Table 11-3 below. All of these measures are optional; none are required to achieve or maintain levels of service that have been adopted as part of this plan.

To assist in planning for these projects, Table 11-3 also identifies other entities that could help implement them and lists potential sources of funds. Many of these funding sources have not been implemented (TIF, stormwater utility), and some would be subject to referendum (utility tax); however, they are included in Table 11-3 to indicate the type of projects that could use each source of funds.

Table 11-3 — Potential Capital Improvements

Project	*Policy*	*Entity*	*Potential Funding Sources*
Alternative transportation modes to Bowditch Point Park (tram, trolley, public docks).	Rec 10-B-2	Town and Lee County	Grant, ~~TDC,~~ General, WCIND
Enhancements to Lynn Hall Park (beach renourishment, beach volleyball areas, etc. and a pedestrian path)	Design 3-D-12, Rec 10-C-1 i	Town and Lee County	Grant, TDC, General
Pedestrian-friendly walkway from beach to bay ~~between the Lynn Hall Memorial Park parking lot and the Times Square plaza.~~	Design 3-D-5 ii Rec 10-C-2 i	Town	Grant, TIF, General, TDC
~~Implement Marina Plaza~~	~~Design 3-D-4 v, Rec 10-C-2 ii~~	~~Partnership: Town/business~~	~~Grant, TIF, Private~~
Implement Central Green and facilitate revitalization of Villa Santini Plaza	Design 3-C-1, 2 Rec 10-C-2 iii	Partnership: Town/business	General, Grant, Private, Stormfee
Implementing Matanzas Pass restoration plan and planned future improvements.	Rec 10-E-1, Cons 6-B-3	Town, Lee Co., non-profit	Grant, TDC
Acquire additional sites for conservation and public appreciation of natural resources.	Rec 10-E-3, Cons 6-b-9	Town	Utility, ~~TDC,~~ Impact, FCT, 20/20
Continue Mound House ~~to pursue acquisition of the Long Estate implement phase 1~~ restoration and improvements, including dockage facilities.	Rec 10-F-2	Town	Grant, General
Acquire one or more beach access points at the southern end of the island.	Rec 10-G-1, Coastal 5-E-3	Town or Lee County	Impact, ~~TDC,~~ Utility
Develop a sidewalk and streetscape plan for all of Estero Boulevard and upon completion, establish a phased schedule of capital improvements to complete the network, including occasional "oasis" areas (resting places for pedestrians and bicyclists) at selected trolley stops and other strategic locations along Estero Boulevard	Design 1-A-3 Rec 10-H-3 Trans 7-E-4	Town	Grant, General
Acquire parcels or easements as part of implementation of hidden paths network.	Design 2-A-1	Town/community land trust	Utility, General, Private
Create Estero Boulevard gateways or entry features	Design 2-C-1	Town or civic project	Grant, General
Develop a program for placing utilities underground that addresses both public and private sector development.	Design 2-C-5	Town and private sector	General, Private~~,~~ ~~MSTBU~~
Prepare a "heart of the island" plan and implement the streetscape plan for School Street and environs.	Design 3-A-4	Town	General
Replace rental space with a town hall if directed by the Town Council	Design 3-A-3	Town	General
Implement the pedestrian circulation plan along Estero Boulevard south of Times Square	Design 3-D-4 Trans 7-E-1	Town	TIF, General~~, MSTBU~~

Table 11-3 — Potential Capital Improvements

Project	*Policy*	*Entity*	*Potential Funding Sources*
Implement traffic circulation improvements in the downtown core area consistent with policies in Community Design Element. Capital costs would involve items such as a turn lane and/or a traffic signal.	Design 3-D-5	Town	TIF, General
Implement trolley/transit improvements in the downtown core area consistent with policies in the Transportation and Community Design Elements. Capital costs would involve providing trolley pull-off lanes on Old San Carlos and Lynn Hall Park, and cost of an open-air electric tram.	Design 3-D-6	Town	TIF, TDC, General, Grant
Implement the streetscape improvements for ~~Old San Carlos,~~ Crescent Street, Center Street, and First through Fifth street, including modifications to the roadway to provide on-street parking, new sidewalks, place utilities underground, landscape the public right-of-way, and implement the stormwater management exfiltration system both by private sector (as each property develops) and by public sector.	Design 3-D-4,5,6 Design 3-D-13 Trans 7-F-2	Town and private sector	~~MSTBU,~~ Grant, Impact, TIF, Stormfee, Private
Build a pedestrian overpass near Times Square	Trans 7-H-1	Town and private sector	~~MSTBU,~~ Grant, General, TIF, Private
Create pedestrian trails, interpretive signage (e.g. at Little Estero Island Critical Wildlife Area)	Rec 10-E-2 Cons 6-B-2	Town, DEP, FGFWFC	Grant, TDC
Participate in beach renourishment, dune creation, and construction of dune walkovers <u>at public beach accesses</u>.	Coastal 5-D-1	Town or Lee County	TDC, Grant, ~~MSTBU,~~ Private
Support the concept of a boardwalk along the beachfront as a private-sector effort	Design 3-D-4 iii, Rec 10-C-1 iv	Private sector	Private
~~Support the development of a privately owned tennis club to replace the Bay Beach Tennis Club~~	~~Rec 10-D-5~~	~~Private sector~~	~~Private~~
<u>Enhancements to Newton Park</u>		<u>Town</u>	<u>TDC, General</u>

<u>Policy legend:</u>

Trans: Transportation Element
FLU: Future Land Use Element
Design: Community Design Element
Rec: Recreation Element
Cons: Conservation Element
Coast: Coastal Management Element
Hous: Housing Element
Hist: Historic Preservation Element
StmW: Stormwater Management Element
Util: Utilities Element

<u>Funding legend:</u>

Grant: Grants
TIF: Tax Increment Financing
Utility: Potential utility tax
Stormfee: Potential stormwater utility fee
Impact: Impact Fees
General: General Fund
Private: Private Sector
~~MSTBU:~~ ~~Municipal service taxing or benefit unit~~
TDC: Tourist development tax (Lee County)
<u>WCIND:</u> <u>West Coast Inland Navigation District</u>
<u>20/20:</u> <u>Conservation 20/20 (Lee County)</u>
<u>FCT:</u> <u>Florida Communities Trust</u>

Education and Health Care Facilities

Comprehensive plans are now required to identify the location and service area of the public education and public health systems, and to analyze the impact of new or improved systems on local infrastructure (Rule 9J-5.016 *FAC*).

There are no existing or planned public health care facilities in the Town of Fort Myers Beach. The only existing public educational facility is the Fort Myers Beach Elementary School. The service area for the elementary school includes the entire town (and beyond). The school is adequately served by roads, solid waste and wastewater disposal, potable water service, drainage, and recreation. There are no additional public educational facilities planned or needed.

Although no new schools will be needed within Fort Myers Beach or to serve students living at Fort Myers Beach, this plan was amended in 2008 to meet new state requirements for a public schools element and concurrency for schools.

Setting Priorities for Capital Improvements

The list of proposed capital projects would clearly cost far more than the revenues now available to fund them over the next five years. In any case, it is often difficult for a community to agree on which projects should be undertaken first (or at all). To provide a framework for decision-making, projects proposed to be included in the Capital Improvements Program ~~budget~~ should be evaluated annually in terms of their ability to further the objectives of the comprehensive plan.

All projects should be evaluated for financial feasibility, their impact on the town's budget, and the town's ability to operate and maintain the facility.

Priority should be given (in the following order) to projects that:

1. Remove a direct and immediate threat to the public health or safety;
2. Are directed by a court order or otherwise by law;
3. Are essential for the maintenance of the town's investment in existing infrastructure;
4. Remove an existing capacity deficiency;
5. Will accommodate new development or redevelopment anticipated by this plan.

For the purpose of further ranking projects that are otherwise equal, the following should be considered:

1. Priorities found elsewhere in the comprehensive plan;
2. Whether the facility is needed to satisfy a mandatory level-of-service standard in this comprehensive plan;
3. Whether the project competes with other facilities that have been or could reasonably be provided by other governmental entities or the private sector;
4. The revenue-generating potential of the project;
5. Whether the project leverages additional benefits to the town, such as offers to donate land or services by the private sector and/or other governmental entities.

State statutes require the following analysis:

> *The financial feasibility of implementing the comprehensive plan and of providing needed infrastructure to achieve and maintain adopted level-of-service standards and sustain concurrency management systems through the capital improvements element, as well as the ability to address infrastructure backlogs and meet the demands of growth on public services and facilities.*[4]

The comprehensive plan contains many ideas that the town cannot afford at this time; for instance, many of the streetscape improvements for the length of Estero Boulevard. However, the definition of "financial feasibility" in state statutes is limited to the feasibility of constructing only those improvements that are necessary to meet the adopted level-of-service standards:

> *"Financial feasibility" means that sufficient revenues are currently available or will be available from committed funding sources for the first 3 years, or will be available from committed or planned funding sources for years 4 and 5, of a 5-year capital improvement schedule for financing capital improvements, such as ad valorem taxes, bonds, state and federal funds, tax revenues, impact fees, and developer contributions, which are adequate to fund the projected costs of the capital improvements identified in the comprehensive plan necessary to ensure that adopted level-of-service standards are achieved and maintained within the period covered by the 5-year schedule of capital improvements. The requirement that level-of-service standards be achieved and maintained shall not apply if the proportionate-share process set forth in s. 163.3180(12) and (16) is used.*[5]

[4] *F.S. 163.3191(2)(c)*

[5] *F.S. 163.3164(32)*

ABILITY TO FINANCE CAPITAL IMPROVEMENTS

This section provides an assessment of the town's ability to finance capital improvements based on anticipated population and revenues. ~~The purpose of~~ This section ~~is to~~ demonstrates that sufficient revenue is available to maintain all adopted levels of service and ~~will be available~~ to pay for additional desired ~~the needed~~ improvements at the time they are scheduled ~~or will be required~~. The fiscal assessment process consists of estimating revenues available for capital improvements and balancing these revenues with anticipated expenditures for capital improvements.

Accounting System

Currently, town's budget is prepared and presented on a line-item and program basis, including:

- administrative costs,
- service cost centers,
- parks and recreation,
- capital improvements,
- Local Planning Agency costs,
- contractual services,
- committees,
- Main Street program, and
- reserves.

In 1998, the town began annual preparation of a capital budget and a five-year Capital Improvements Program ~~budget~~ which is separate from but consistent with the town's operating budget. Capital improvements have been ~~will be~~ funded by transfers from the general fund and other revenue funds specifically for capital projects as they have become available. No capital improvements have been undertaken with borrowed funds.

The general fund is the principal fund which accounts for the daily recurring activities of the town. It is funded by ad valorem revenues, intergovernmental transfers, and miscellaneous revenues, as described earlier in this element.

In fiscal year 08/09 ~~97/98~~, the general fund budgeted $3,028,337 for ~~$219,000 in~~ non-transportation capital projects, including development of the Newton Beach Park, improvements to the Mound House, land acquisition, and start-up funds for beach renourishment. ~~$20,000 for capital equipment, $69,000 to add to the grant of $1,031,000 to purchase the Mound House, and $130,000 for improvements to the Mound House.~~

~~Other revenues~~ $3,485,000 was budgeted in fiscal year 08/09 for transportation capital projects as described in Table 11-7. ~~to date include:~~

- ~~Gas taxes, which for F.Y. 97/98 is budgeted for $578,300 for sidewalks, landscaping, and bike paths.~~
- ~~Florida Communities Trust grant — $1,031,000 for land acquisition mound house.~~
- ~~$60,000 for public dock construction (boater improvement grant through WCIND).~~

Forecasts of General Revenues and Expenditures

Revenue forecasts are required in capital budgeting for future years. A conservative look at recent events suggests that historic revenue increases should not be assumed to continue and that future budgeting should be based on the same revenue shown in the 2008/2009 annual budget. ~~The following forecast is based on current trends, which indicate a 1% to 2% per year annual growth in population. The 1997 value of taxable assessed property is $1,150,357,320, and is forecasted herein to increase at 3% per year, based on an analysis of the growth rate for the Fort Myers Beach Fire District which is larger than but encompasses the town (see Table 11-2).~~ Consistent with the town's governmental philosophy, forecasts of millage rates are likewise kept constant at 0.7093 (see Table 11-2). ~~1.0961 for the 1997–2002 period.~~ Table 11-4 provides the forecasted ad valorem proceeds.

Table 11-5 forecasts all anticipated ~~sales tax and other shared~~ revenues for FY 08/09 through 12/13, conservatively assuming no revenue increases in future years. A similar assumption is made about future expenditures. ~~such as gas taxes. These shared revenues are forecasted here to increase at 1% per year.~~ To the extent that these revenues are not budgeted for ongoing services and operations, funds may be allocated from the general fund for capital improvements.

~~Table 11-6 forecasts non-capital expenditures based on the town's F.Y. 97/98 budget. Some of these costs will increase over time as services are expanded, and some will decrease as needs change for categories such as committees, contractual services, Main Street program, etc. Therefore, consistent with the town's current philosophy, increases of only 2% are forecasted for most non-capital expenses over the five-year period. Table 11-6 concludes by providing a forecast of the amount likely to remain available from the general fund for capital expenditures.~~

~~Table 11-4 — Ad Valorem Revenues, 1996/97 – 2001/02~~

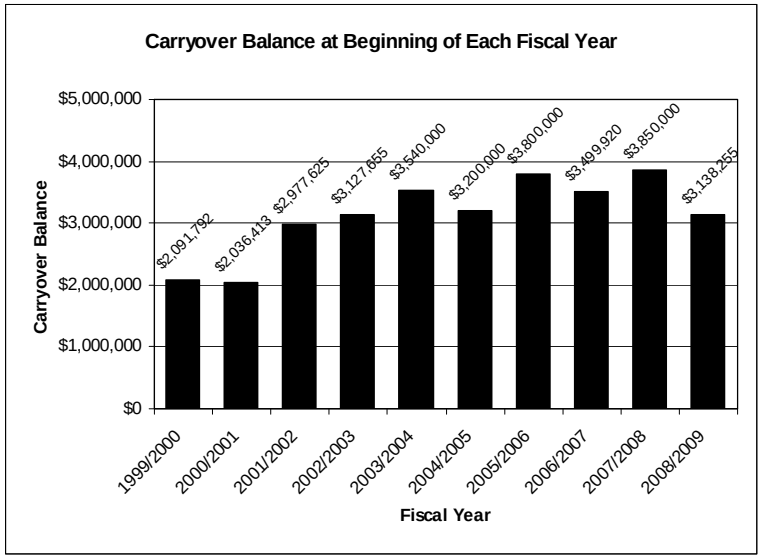
	~~*FY 96/97 (Actual)*~~	~~*FY 97/98 (Budgeted)*~~	~~*FY 98/99 (Projected)*~~	~~*FY 99/00 (Projected)*~~	~~*FY 00/01 (Projected)*~~	~~*FY 01/02 (Projected)*~~
~~**Assessed value of real property** *(within the town)* *(projected increase at 3% per year)*~~	~~$1,096,980,740~~	~~$1,150,357,320~~	~~$1,184,868,040~~	~~$1,220,414,081~~	~~$1,257,026,503~~	~~$1,294,737,298~~
~~**Millage rate** *(per $1,000 of value)*~~	~~1.0604~~	~~1.0961~~	~~1.0961~~	~~1.0961~~	~~1.0961~~	~~1.0961~~
~~**Gross Tax Estimate**~~	~~----------~~	~~$1,260,907~~	~~$1,298,734~~	~~$1,337,696~~	~~$1,377,827~~	~~$1,419,162~~
~~***Less 5%*** *(budgeting requirement)*~~	~~----------~~	~~$63,045~~	~~$64,937~~	~~$66,885~~	~~$68,891~~	~~$70,958~~
~~**Estimated ad valorem revenue**~~	~~----------~~	~~$1,197,861~~	~~$1,233,797~~	~~$1,270,811~~	~~$1,308,935~~	~~$1,348,203~~

Table 11-4 — Ad Valorem Revenues, 2008/09 – 2012/13

	FY 08/09 (Budgeted)	*FY 09/10 (Projected)*	*FY 10/11 (Projected)*	*FY 11/12 (Projected)*	*FY 12/13 (Projected)*
Assessed value of real property *(zero projected increase)*	$3,443,135,660	$3,443,135,660	$3,443,135,660	$3,443,135,660	$3,443,135,660
Millage rate *(per $1,000 of value)*	0.7093	0.7093	0.7093	0.7093	0.7093
Gross Tax Estimate	$2,442,216	$2,442,216	$2,442,216	$2,442,216	$2,442,216
Less 5% *(budgeting requirement)*	$122,111	$122,111	$122,111	$122,111	$122,111
Estimated ad valorem revenue	$2,320,105	$2,320,105	$2,320,105	$2,320,105	$2,320,105

During the period since adoption of the comprehensive plan, the town has functioned without long-term debt and has continued to build up a surplus of funds, as shown in Figure 3.

Figure 3



~~Table 11-5 — Projected Revenues Available for Operating Expenses, 1997/98 – 2001/02~~

~~*(revenues projected to increase by 1% annually)*~~ ~~*(revenues forecasted at 95%)*~~		~~*FY 97/98*~~ ~~*(Budgeted)*~~	~~*FY 98/99*~~ ~~*(Projected)*~~	~~*FY 99/00*~~ ~~*(Projected)*~~	~~*FY 00/01*~~ ~~*(Projected)*~~	~~*FY 01/02*~~ ~~*(Projected)*~~
~~**RECURRING REVENUE:**~~						
~~**Municipal Revenue Sharing**~~ ~~*(35% or $29,377 to be used for transportation)*~~		~~$83,935~~	~~$84,774~~	~~$85,622~~	~~$86,478~~	~~$87,343~~
~~**Municipal Financial Assistance Trust Fund**~~ ~~*(cigarette tax)*~~		~~$31,370~~	~~$31,684~~	~~$32,001~~	~~$32,321~~	~~$32,644~~
~~**Local Government Half-Cent Sales Tax**~~ ~~*(for municipal-wide programs)*~~		~~$385,760~~	~~$389,618~~	~~$393,514~~	~~$397,449~~	~~$401,423~~
~~**Gas Tax**~~		~~$578,300~~	~~$584,083~~	~~$589,924~~	~~$595,823~~	~~$601,781~~
~~**Franchise Fees** – *cable*~~		~~$50,566~~	~~$51,072~~	~~$51,582~~	~~$52,098~~	~~$52,619~~
~~**Franchise Fees** – *garbage hauling*~~		~~$20,250~~	~~$20,453~~	~~$20,657~~	~~$20,864~~	~~$21,072~~
~~**Interest earnings**~~		~~$85,000~~	~~$85,850~~	~~$86,709~~	~~$87,576~~	~~$88,451~~
~~**Parking meters**~~		~~$22,000~~	~~$22,220~~	~~$22,442~~	~~$22,667~~	~~$22,893~~
~~**Occupational Licenses/Permits/Fees**~~		~~$22,300~~	~~$22,523~~	~~$22,748~~	~~$22,976~~	~~$23,205~~
~~***SUBTOTAL***~~		~~$1,279,481~~	~~$1,292,276~~	~~$1,305,199~~	~~$1,318,251~~	~~$1,331,433~~
~~**Ad Valorem**~~		~~??~~	~~??~~	~~??~~	~~??~~	~~??~~
~~***SUBTOTAL OF RECURRING REVENUES***~~		~~$1,279,481~~	~~$1,292,276~~	~~$1,305,199~~	~~$1,318,251~~	~~$1,331,433~~
~~**NON-RECURRING REVENUE:**~~						
~~**Grant income**~~		~~$1,355,000~~	~~$0~~	~~$0~~	~~$0~~	~~$0~~
~~***1997/98 breakdown:***~~						
~~*Non-capital grants*~~	~~*$64,000*~~					
~~*Times Square Capital Improvements*~~	~~*$200,000*~~					
~~*Public docks*~~	~~*$60,000*~~					
~~*Land Acquisition – Mound House*~~	~~*$1,031,000*~~					
~~**Carry Over**~~		~~$1,755,192~~	~~$1,730,192~~	~~$1,363,320~~	~~$972,007~~	~~$554,176~~
~~**TOTAL GENERAL FUND REVENUE:**~~		~~$4,389,673~~	~~$3,022,468~~	~~$2,668,519~~	~~$2,290,258~~	~~$1,885,609~~

~~Table 11-6 — Projected Expenditures (based on adopted budget for 1997/98)~~

	~~*FY 97/98 (Budgeted)*~~	~~*FY 98/99 (Projected)*~~	~~*FY 99/00 (Projected)*~~	~~*FY 00/01 (Projected)*~~	~~*FY 01/02 (Projected)*~~
~~**Total Administrative Expense**~~	~~$367,704~~	~~$375,058~~	~~$382,559~~	~~$390,210~~	~~$398,015~~
~~**Tax Collector's Fee**~~	~~$31,531~~	~~$32,162~~	~~$32,805~~	~~$33,461~~	~~$34,130~~
~~**Total Service Costs**~~	~~$327,695~~	~~$334,249~~	~~$340,934~~	~~$347,753~~	~~$354,708~~
~~**Parks and Recreation**~~ ~~*(operation and maintenance)*~~	~~$259,000~~	~~$264,180~~	~~$269,464~~	~~$274,853~~	~~$280,350~~
~~**Total LPA**~~	~~$284,685~~	~~$100,000~~	~~$75,000~~	~~$50,000~~	~~$50,000~~
~~**Total Contractual Services**~~	~~$129,600~~	~~$132,192~~	~~$134,836~~	~~$137,533~~	~~$140,283~~
~~**Total Committees**~~	~~$8,000~~	~~$8,160~~	~~$8,323~~	~~$8,490~~	~~$8,659~~
~~**Total Main Street program**~~	~~$30,000~~	~~$30,600~~	~~$31,212~~	~~$31,836~~	~~$32,473~~
~~**State Unemployment**~~	~~$13,000~~	~~$13,260~~	~~$13,525~~	~~$13,796~~	~~$14,072~~
~~**Contingency**~~	~~$72,079~~	~~$73,521~~	~~$74,991~~	~~$76,491~~	~~$78,021~~
~~**Reserves**~~	~~$269,300~~	~~$366,872~~	~~$391,314~~	~~$417,831~~	~~$446,622~~
~~**End Fund Balance**~~ ~~*(carry over to fund future reserves)*~~	~~$1,730,192~~	~~$1,363,320~~	~~$972,007~~	~~$554,176~~	~~$107,554~~
~~***Subtotal of Expenditures***~~ ~~*(not including capital expenditures)*~~	~~$3,522,786~~	~~$3,093,573~~	~~$2,726,970~~	~~$2,336,429~~	~~$1,944,886~~
~~***General Fund Revenues Minus Expenditures***~~ ~~*(potentially available for capital improvements)*~~	~~$866,887~~	~~($71,105)~~	~~($58,451)~~	~~($46,171)~~	~~($59,277)~~

Table 11-5 — Revenue Projections, FY 08/09 to 12/13

	FY 08/09	FY 09/10	FY 10/11	FY 11/12	FY 12/13
POTENTIAL REVENUE FOR TRANSPORTATION CAPITAL IMPROVEMENTS:					
Municipal revenue sharing program (26.6% share from state that is limited to transportation)	$31,490	$30,000	$30,000	$30,000	$30,000
Transportation impact fees	$85,000	$25,000	$20,000	$15,000	$10,000
Local option gas tax (based on 1.02% share of $0.11 county tax on motor fuel beginning 09-10)	$250,156	$325,000	$325,000	$325,000	$325,000
Interest	$60,000	$0	$0	$0	$0
Grants:					
North Estero Rehabilitation (grant previously approved by SFWMD)	$350,000	$0	$0	$0	$0
North Estero Rehabilitation (grant anticipated from FEMA)	$954,400	$0	$0	$0	$0
Stormwater, Carolina to Tropical Shores (hazard mitigation grant from FEMA)	$131,250	$131,250	$0	$0	$0
Special assessment from Laguna Shores (60% of dredging cost)	$190,000	$0	$0	$0	$0
Miscellaneous transportation revenues	$242,139	$0	$0	$0	$0
Anticipated annual transportation revenue:	***$1,791,046***	***$380,000***	***$375,000***	***$370,000***	***$365,000***
Less transportation revenue remaining in annual operating budget:	*$444,301*	*$250,000*	*$250,000*	*$250,000*	*$250,000*
Equals anticipated revenue available for transportation capital improvements:	***$1,346,745***	***$130,000***	***$125,000***	***$120,000***	***$115,000***
POTENTIAL REVENUE FOR NON-TRANSPORTATION CAPITAL IMPROVEMENTS:					
Ad valorem property taxes	$2,415,131	$2,415,131	$2,415,131	$2,415,131	$2,415,131
Community park impact fees	$17,000	$2,500	$2,500	$2,500	$2,500
Regional park impact fees	$15,500	$2,000	$2,000	$2,000	$2,000
Accumulated park impact fees from prior years (to be used for Newton Park)	$164,000	$0	$0	$0	$0
Municipal revenue sharing program (73.4% share from state that is not limited to transportation)	$86,893	$150,000	$150,000	$150,000	$150,000
Local government portion of sales tax	$516,079	$500,000	$500,000	$500,000	$500,000
Communication services tax	$665,029	$665,029	$665,029	$665,029	$665,029
Franchise fee (on garbage hauling)	$80,000	$80,000	$80,000	$80,000	$80,000
Interest earnings	$150,000	$0	$0	$0	$0
Grants:					
Newton Park (carryover of development grant from TDC)	$380,000	$0	$0	$0	$0
Mound House restoration (carryover of prior TDE and state grants)	$520,932	$0	$0	$0	$0
Mound House landscape restoration phase II (grant from TDC)	$726,405	$0	$0	$0	$0
Miscellaneous non-transportation revenues	$589,521	$600,000	$600,000	$600,000	$600,000
Anticipated annual non-transportation revenue:	***$6,326,490***	***$4,414,660***	***$4,414,660***	***$4,414,660***	***$4,414,660***
Less non-transportation revenue required for annual operating expenses:	*$3,297,653*	*$3,300,000*	*$3,300,000*	*$3,300,000*	*$3,300,000*
Equals anticipated revenue available for non-transportation capital improvements:	*$3,028,837*	*$1,114,660*	*$1,114,660*	*$1,114,660*	*$1,114,660*

FIVE-YEAR SCHEDULE OF CAPITAL IMPROVEMENTS

Table 11-7 shows the most recent ~~proposed~~ five-year schedule of capital improvements, as amended through FY 2008/09 to 2012/13. ~~98/99 to 02/03, which is the culmination of this element.~~ Because this schedule must be balanced (expenditures cannot exceed revenues), the number of projects to be implemented is limited to existing revenue sources. If future grants are obtained for capital projects, they will also be added. Because the town's charter currently prohibits most borrowing, no forecast of the town's debt capacity is provided.

Additional projects can be added as additional revenue sources are put in place, or if listed projects are modified or deleted. As a practical matter, these updates to the Capital Improvements Program this will be evaluated during the annual budget cycle which is completed in late September of each year. Table 11-7 of this ~~The Capital Improvements Program and this~~ Element will be revised annually by the town council to reflect such decisions. Based on recent state legislation, the annual update to this plan can now be adopted by ordinance during the final budget hearing; the old rules, which required advance transmittal of the proposed update, have been repealed.

~~Table 11-7 — Revised Five-Year Schedule of Capital Improvements, FY 04/05 to 08/09~~

	~~FY 04/05~~	~~FY 05/06~~	~~FY 06/07~~	~~FY 07/08~~	~~FY 08/09~~
~~***TRANSPORTATION CAPITAL IMPROVEMENTS:***~~	~~*(Budgeted)*~~	~~*(Projected)*~~	~~*(Projected)*~~	~~*(Projected)*~~	~~*(Projected)*~~
~~**Transportation/drainage maintenance, etc.**~~	~~$500,000~~	~~$250,000~~	~~$300,000~~	~~$150,000~~	~~$150,000~~
~~**Transportation/canals**~~	~~$200,000~~	~~$200,000~~	~~$100,000~~	~~$100,000~~	~~$100,000~~
~~**Traffic calming (side streets)**~~	~~$0~~	~~$0~~	~~$50,000~~	~~$0~~	~~$0~~
~~**Estero Boulevard safety project**~~	~~$0~~	~~$0~~	~~$0~~	~~$0~~	~~$0~~
~~**North Estero improvements**~~	~~$350,000~~	~~$175,000~~	~~$175,000~~	~~$0~~	~~$0~~
~~**Congestion mitigation initiatives**~~	~~$1,026,000~~	~~$375,000~~	~~$375,000~~	~~$375,000~~	~~$0~~
~~**Side street resurfacing**~~	~~$100,000~~	~~$100,000~~	~~$100,000~~	~~$100,000~~	~~$100,000~~
~~**Trolley stop improvements**~~	~~$24,000~~	~~$0~~	~~$0~~	~~$0~~	~~$0~~
~~**Alternating lights**~~	~~$140,000~~	~~$0~~	~~$0~~	~~$0~~	~~$0~~
~~**Parking meter improvements**~~	~~$10,000~~	~~$0~~	~~$10,000~~	~~$0~~	~~$10,000~~
~~**Estero streetscape**~~	~~$0~~	~~$0~~	~~$0~~	~~$0~~	~~$0~~
~~***Total of proposed annual expenditures:***~~	~~***$2,350,000***~~	~~***$1,100,000***~~	~~***$1,110,000***~~	~~***$725,000***~~	~~***$360,000***~~
~~*Anticipated annual transportation revenue:*~~	~~*$3,926,234*~~	~~*$975,000*~~	~~*$725,000*~~	~~*$725,000*~~	~~*$300,000*~~
~~*Anticipated year-end transportation reserves:*[7]~~	~~*$1,576,234*~~	~~*$1,451,234*~~	~~*$1,066,234*~~	~~*$1,066,234*~~	~~*$1,006,234*~~
~~***NON-TRANSPORTATION CAPITAL IMPROVEMENTS:***~~					
~~**Office remodeling**~~	~~$20,000~~	~~$5,000~~	~~$5,000~~	~~$0~~	~~$0~~
~~**Truck and maintenance crew equipment**~~	~~$25,000~~	~~$24,000~~	~~$24,000~~	~~$24,000~~	~~$0~~
~~**GIS project**~~	~~$20,000~~	~~$0~~	~~$0~~	~~$0~~	~~$0~~
~~**Software**~~	~~$15,000~~	~~$0~~	~~$0~~	~~$0~~	~~$0~~
~~**Office equipment**~~	~~$30,000~~	~~$0~~	~~$0~~	~~$0~~	~~$0~~
~~**Public dock below Sky Bridge**~~	~~$66,000~~	~~$0~~	~~$0~~	~~$0~~	~~$0~~
~~**Conversion of Newton property**~~	~~$500,000~~	~~$0~~	~~$0~~	~~$0~~	~~$0~~
~~**Land acquisition (other)**~~	~~$0~~	~~$200,000~~	~~$200,000~~	~~$200,000~~	~~$200,000~~
~~**Mound House**~~	~~$325,000~~	~~$0~~	~~$0~~	~~$0~~	~~$0~~
~~**Beach restoration**~~	~~$910,000~~	~~$10,000~~	~~$10,000~~	~~$10,000~~	~~$10,000~~
~~**Harbor plan and anchorage**~~	~~$302,500~~	~~$0~~	~~$0~~	~~$10,000~~	~~$0~~
~~**Community pool improvements**~~	~~$20,000~~	~~$0~~	~~$10,000~~	~~$0~~	~~$0~~
~~**Pink Shell cottages**~~	~~$0~~	~~$0~~	~~$0~~	~~$0~~	~~$0~~
~~**Bay Oaks park improvements**~~	~~$0~~	~~$10,000~~	~~$0~~	~~$0~~	~~$10,000~~
~~**Neighborhood landscaping (matching funds for street trees)**~~	~~$20,000~~	~~$10,000~~	~~$10,000~~	~~$10,000~~	~~$10,000~~
~~***Total of proposed annual expenditures:***~~	~~***$2,253,500***~~	~~***$259,000***~~	~~***$259,000***~~	~~***$254,000***~~	~~***$230,000***~~
~~*Anticipated annual non-transportation revenue:*~~	~~*$2,275,968*~~	~~*$250,000*~~	~~*$250,000*~~	~~*$250,000*~~	~~*$250,000*~~
~~*Anticipated year-end non-transportation reserves:*[8]~~	~~*$22,468*~~	~~*$13,468*~~	~~*$4,468*~~	~~*$468*~~	~~*$20,468*~~
~~***DOWNTOWN REDEVELOPMENT AGENCY (DRA):***~~					
~~**Phase II Times Square streetscape**~~	~~*$0*~~	~~*$0*~~	~~*$0*~~	~~*$0*~~	~~*$0*~~
~~**Old San Carlos/Crescent streetscape (unpaid balance)**~~	~~*$350,000*~~	~~*$0*~~	~~*$0*~~	~~*$0*~~	~~*$0*~~
~~**Transit improvements (tram service)**~~	~~*$0*~~	~~*$0*~~	~~*$0*~~	~~*$0*~~	~~*$0*~~
~~**Activities (recommended by Alliance/Times Square Comm.)**~~	~~*$20,000*~~	~~*$0*~~	~~*$0*~~	~~*$0*~~	~~*$0*~~
~~**Median pedestrian refuge & sidewalk near Seafarer's**~~	~~*$200,000*~~	~~*$0*~~	~~*$0*~~	~~*$0*~~	~~*$0*~~
~~**Outside legal/planning services**~~	~~*$30,000*~~	~~*$0*~~	~~*$0*~~	~~*$0*~~	~~*$0*~~
~~***Total of proposed annual expenditures:***~~	~~***$600,000***~~	~~***$0***~~	~~***$0***~~	~~***$0***~~	~~***$0***~~
~~*Anticipated annual DRA revenue:*~~	~~*$666,230*~~	~~*$159,848*~~	~~*$159,848*~~	~~*$159,848*~~	~~*$159,848*~~
~~*Anticipated year-end DRA reserves:*[9]~~	~~*$66,230*~~	~~*$226,078*~~	~~*$385,926*~~	~~*$545,774*~~	~~*$705,622*~~

~~[7] *Initial transportation reserves were $2,794,234.*~~

~~[8] *Initial non-transportation reserves were $972,468.*~~

~~[9] *Initial DRA reserves were $506,382.*~~

Table 11-7 — Revised Five-Year Schedule of Capital Improvements, FY 08/09 to 12/13

	Reduce level-of-service deficiency	Maintain adopted LOS?	Meet future LOS after growth?	Replace facility to maintain LOS?	Desirable but not related to LOS	FY 08/09	FY 09/10	FY 10/11	FY 11/12	FY 12/13
TRANSPORTATION CAPITAL IMPROVEMENTS:						***(Capital budget)***	***(Projected in CIP)***	***(Projected in CIP)***	***(Projected in CIP)***	***(Projected in CIP)***
Transportation: stormwater master plan & early implementation	–	–	–	–	✓	$265,000	$0	$0	$0	$0
Transportation: dredging at Laguna Shores	–	–	–	–	✓	$475,000	$0	$0	$0	$0
Transportation: stormwater plan from Carolina to Tropical Shores	–	–	–	–	✓	$175,000	$175,000	$0	$0	$0
North Estero Blvd. improvements (Times Square to Bowditch Point)	–	–	–	–	✓	$2,570,000	$710,415	$0	$0	$0
Total of proposed annual expenditures:						***$3,485,000***	***$885,415***	***$0***	***$0***	***$0***
Transportation reserves carried forward from prior year:						*$2,138,255*	*$0*	*($755,415)*	*($630,415)*	*($510,415)*
Anticipated annual transportation & related revenue for capital improvements:						*$1,346,745*	*$130,000*	*$125,000*	*$120,000*	*$115,000*
Anticipated year-end transportation reserves after proposed expenditures:						*$0*	*($755,415)*	*($630,415)*	*($510,415)*	*($395,415)*
NON-TRANSPORTATION CAPITAL IMPROVEMENTS:										
Conversion of Newton property (funded largely by TDC grant)	–	–	–	–	✓	$544,000	$0	$0	$0	$0
Beach access improvements (restrooms)	–	–	–	–	✓	$0	$100,000	$0	$0	$0
Mound House improvements (funded by state, federal & TDC grants, plus park impact fees carried forward from prior years)	–	–	–	–	✓	$1,247,337	$0	$0	$0	$0
Beach restoration	–	–	–	–	✓	$1,000,000	$0	$0	$0	$0
Land acquisition	–	–	–	–	✓	$225,000	$0	$0	$0	$0
Neighborhood landscaping (matching funds for street trees)	–	–	–	–	✓	$12,500	$10,000	$10,000	$0	$0
Capital repairs to water utility system	–	–	–	–	✓	$0	$0	$0	$3,000,000	$3,000,000
Acquire property and renovate existing town hall	–	–	–	–	✓	$0	$3,800,000	$500,000	$0	$0
Total of proposed annual expenditures:						***$3,028,837***	***$3,910,000***	***$510,000***	***$3,000,000***	***$3,000,000***
Non-transportation reserves carried forward from prior year if not listed on Table 11.5:						*$0*	*$0*	*($2,795,340)*	*($2,190,680)*	*($4,076,020)*
Anticipated annual revenue for non-transportation capital improvements:						*$3,028,837*	*$1,114,660*	*$1,114,660*	*$1,114,660*	*$1,114,660*
Anticipated year-end non-transportation reserves after proposed expenditures:						*$0*	*($2,795,340)*	*($2,190,680)*	*($4,076,020)*	*($5,961,360)*

GOALS - OBJECTIVES - POLICIES

Based on the analysis of capital improvements issues in this element, the following goals, objectives, and policies are adopted into the Fort Myers Beach Comprehensive Plan:

GOAL 11: To provide major public improvements that help create the safe and beautiful community envisioned in this comprehensive plan.

OBJECTIVE 11-A **CAPITAL IMPROVEMENTS PROGRAM** — Adopt each year, as part of the budget process, a capital improvements program (CIP) that implements this plan, ensures the availability of services at adopted levels, and carries out the fiscal policies in this element.

POLICY 11-A-1 **ROLE OF THE CIP** — As a part of the town's annual budget process, the town shall adopt a Capital Improvements Program every year that identifies all proposed capital expenditures for the ensuing five-year period, identifies the revenues to fund the expenditures, and describes each project's compliance with the criteria in Policy 11-A-4 below. The proposed CIP shall be balanced, with the proposed expenditures not greater than the amount of revenues available to fund the expenditures. A list of projects that are needed, but unfunded, may be included as an attachment to the balanced CIP. Once adopted, the new five-year schedule of capital improvements ~~CIP~~ shall annually be incorporated into the Capital Improvements Element.

POLICY 11-A-2 **CIP PROCESS** — The Capital Improvements Program shall be prepared, adopted, and amended according to the following process:

i. The proposed CIP shall be developed by the Town Manager based on a review of existing facilities, level-of-service standards, current and projected deficiencies, and the capital needs as identified in this comprehensive plan.
ii. The proposed CIP shall be reviewed by the Local Planning Agency (LPA) which shall consider the consistency of all proposed CIP expenditures with this comprehensive plan.
iii. After reviewing the report of the LPA, the Town Council shall modify the CIP as needed and adopt it by resolution in conjunction with the annual budget.
iv. After its adoption, the CIP may be amended by resolution of the Council. All changes to the CIP must be consistent with this comprehensive plan.

POLICY 11-A-3 **CIP FISCAL POLICIES** — All projects included in the CIP should be evaluated for financial feasibility, their impact on the town's budget, and the town's ability to operate the facility. Operating costs associated with public facilities and services programmed in the CIP shall be incorporated into the town's operating budget. The capital portion of the annual ~~operating~~ budget shall be consistent with the first year of the adopted CIP. Where an amendment to the CIP affects the first year, the annual operating budget shall also be amended to remain consistent with the CIP.

POLICY 11-A-4 **CIP PRIORITIES** — The following priorities shall be used in determining which projects are included in the CIP:

i. Remove a direct and immediate threat to the public health or safety;
ii. Are directed by a court order or otherwise by law;
iii. Are essential for the maintenance of existing infrastructure;
iv. Remove an existing capacity deficiency;
v. Will accommodate new development or redevelopment anticipated by this plan.

POLICY 11-A-5 **OTHER CIP CRITERIA** — For the purpose of further ranking projects that are otherwise equal, the following should be considered:

i. Priorities found elsewhere in the comprehensive plan;
ii. Whether the facility is needed to satisfy a level-of-service standard in this plan;
iii. Whether the project competes with other facilities that have been or could reasonably be provided by other governmental entities or the private sector;
iv. The revenue-generating potential of the project;
v. Whether the project leverages additional benefits to the town, such as offers to donate land or services by the private sector and/or other governmental entities.

POLICY 11-A-6 **CAPITAL IMPROVEMENT DEFINED** — A "capital improvement" is a project to acquire, build or improve a major asset that will have long-term value, such as sidewalks, roads, landscaping, beach renourishment, parks, and nature preserves. Capital improvements usually have a value of at least $10,000 and may include planning and design studies that will lead to a physical improvement.

POLICY 11-A-7 **SCHEDULE OF IMPROVEMENTS** — Table 11-7 of this element presents the five-year schedule of capital improvements to be undertaken by the Town of Fort Myers Beach. This schedule will be updated each year through an amendment to this plan to correspond with revisions to the capital improvements program made by the town during its annual budget process.

i. To comply with § 163.3180(13)(d), *F.S.*, the required five-year schedule of capital improvements also includes the capacity-enhancing school improvements and summary of estimated revenues as presented by the Lee County School District through its Five-Year District Facilities Work Program, as updated each September. For FY 2008/09 through 2012/13, the specific capacity-enhancing school improvements are listed in Table 16-7 of the Public Schools Element and the formal demonstration that those improvements meet all requirements of state law is set forth in that element.
ii. To comply with § 163.3177(3)(a)5, *F.S.*, any capital improvements that Lee County Utilities needs to construct to achieve or maintain the potable water level of service in this plan during the next five years will be included in the town's five-year schedule of capital improvements.

OBJECTIVE 11-B **LEVEL-OF-SERVICE STANDARDS — Adopt and maintain a concurrency management system that ensures that public facilities are provided in accordance with the adopted level-of-service (LOS) standards for potable water, sanitary sewer, solid waste, stormwater, recreation, and transportation.**

POLICY 11-B-1 **UTILITIES LOS STANDARDS** (Repeated from Policy 8-B-1 of the Utilities Element): The minimum acceptable level-of-service standards for utility services within the Town of Fort Myers Beach shall be:

i. for potable water service:
   - (a) Available supply, treatment, and delivery capacity of 260 gallons per day per equivalent residential connection (ERC), and delivery of potable water at a minimum pressure of 20 pounds per square inch (psi) at the meter anywhere in the system.
   - (b) Prior to issuance of building permits, the town must obtain assurances from Lee County Utilities that an adequate bulk water supply will be available to the town's water distribution system to serve new development at these same rates.

ii. for sanitary sewer service: available capacity to collect, treat, and dispose of wastewater of 175 gallons per day per equivalent residential connection (ERC).

iii. for solid waste disposal service: the ability to collect and manage 7 pounds of municipal solid waste per person per day.

POLICY 11-B-2 **STORMWATER LOS STANDARDS** (Repeated from Policy 9-D-1 of the Stormwater Management Element): Until completion of the evaluation under Stormwater Management Element Policy 9-F-1 to 6, interim levels of service are hereby established for protection from flooding to be provided by stormwater and roadway facilities:

i. During a 3-day rainfall accumulation of 13.7 inches or less (3-day, 100-year storm as defined by SFWMD), one lane of evacuation routes should remain passable (defined as less than 6 inches of standing water over the crown). Emergency shelters and essential services should not be flooded.

ii. During a 3-day rainfall accumulation of 11.7 inches or less (3-day, 25-year storm as defined by SFWMD), all lanes of evacuation routes should remain passable. Emergency shelters and essential services should not be flooded.

iii. During coastal flooding of up to 4.0 feet above mean sea level, all lanes of evacuation routes should remain passable. Emergency shelters should not be flooded.

POLICY 11-B-3 **RECREATION LOS STANDARD** (Repeated from Policy 10-D-3 of the Recreation Element): The town adopts the following standard for community parks: for each 7,500 permanent residents, 1 centrally located recreation complex that includes 2 ballfields, 2 tennis courts, outdoor basketball courts, play equipment, an indoor gymnasium, and community meeting spaces. Programming shall address all age groups and encompass active recreation, physical improvement, and social, educational, and cultural activities.

POLICY 11-B-4 **TRANSPORTATION LOS STANDARD** (Repeated from Policy 7-I-2 of the Transportation Element): The peak capacity of Estero Boulevard's congested segments is 1,300 vehicles per hour. The minimum acceptable level-of-service standard for Estero Boulevard shall be that average monthly traffic flows from 10:00 A.M. to 5:00 P.M. during each month do not exceed that level for more than four calendar months in any continuous twelve-month period. Measurements from the permanent count station at Donora Boulevard shall be used for this standard.

POLICY 11-B-4.5 **PUBLIC SCHOOL LOS STANDARD** (Repeated from Policy 16-B-1 of the Public Schools Element): The minimum acceptable level-of-service standards for public schools within the Town of Fort Myers Beach shall be:

i. Elementary Schools: 100% of permanent capacity as adjusted by the school district annually to account for measurable programmatic changes.
ii. Middle Schools: 100% of permanent capacity as adjusted by the school district annually to account for measurable programmatic changes.
iii. High Schools: 100% of permanent capacity as adjusted by the school district annually to account for measurable programmatic changes.
iv. Special Purpose Schools: 100% of permanent capacity as adjusted by the school district annually to account for measurable programmatic changes.

"Permanent capacity" of each of the four types of schools means the combined capacity for all schools of that ~~each~~ type that are located in the school district's South Student Assignment Zone, as depicted in Figure 3 of this element. (Multi-zone magnet schools and special centers are excluded.) Permanent capacity is the capacity of permanent buildings as determined by the Florida Inventory of School Houses, 2006 edition, published by the Florida Department of Education's Office of Educational Facilities. "Measurable programmatic change" means a change to the operation of a school and measurable capacity impacts including, but not limited to, double sessions, floating teachers, year--round schools, and special educational programs.

POLICY 11-B-5 **CONCURRENCY** — The town will enforce these levels of service under the concurrency requirements of Florida law by:

i. Withholding development orders or building permits that might cause the adopted levels of service to fall below the minimum standards; or by
ii. Issuing development orders or building permits subject to the condition that, at the time of the issuance of a certificate of occupancy, the necessary facilities and services must be in place and available to serve the development being authorized (or are guaranteed to be in place through an enforceable development agreement pursuant to Section 163.320 *FS* or through an agreement or development order pursuant to Chapter 380 *FS*).

However, for parks/recreation, transportation, and public schools, the following requirements will apply:

iii. For parks and recreation, the facilities needed to serve new development must be

in place or under actual construction within 1 year after issuance of a certificate of occupancy; any required acreage must meet the requirements of 163.3180(2)(b), Florida Statutes.

iv, For transportation, the facilities needed to serve new development must be in place when a building permit is issued, or under actual construction within 3 years after issuance of a building permit that results in traffic generation if the required facility is listed in Table 11-7, the Five-Year Schedule of Capital Improvements.

v. For public schools, the facilities needed to serve new development must be in place when a final site plan is issued; or under actual construction within 3 years after issuance if the required facility is listed in Table 11-7, the Five-Year Schedule of Capital Improvements; or mitigation may be accepted by the school district in accordance with the Public Schools Element of this plan.

POLICY 11-B-6 **CONCURRENCY MANAGEMENT SYSTEM** — The town's concurrency management system shall comply with the provisions of Rule 9J-5.0055 *FAC* to include:

i. The town's commitment to maintain the adopted level-of-service standards for potable water, sanitary sewer, solid waster, stormwater, recreation, and transportation.

ii. The town's commitment that future CIPs and amendments to this element maintain this element's financially feasible plan to maintain these levels of service.

iii. A system for monitoring and ensuring adherence to the adopted level-of-service standards, the schedule of capital improvements, and the availability of public facility capacity.

iv. Standards for interpreting and applying level-of-service standards to applications for development orders and building permits and specifying when the test for concurrency must be met (which will be no later than issuance of a development order or permit which contains a specific plan for development, including densities and intensities).

v. The concurrency management system shall be implemented through the Land Development Code and ensure that development orders and building permits that are issued will not result in a reduction in the levels of service below the adopted levels of service.

POLICY 11-B-7 **ANNUAL CONCURRENCY ASSESSMENT** — The Town Manager shall annually prepare a formal assessment of the current status of the adopted level-of-service standards, including:

i. existing usage of public facilities;

ii. available capacity (committed or uncommitted); and

iii. additional public facilities that are being planned.

Based on this assessment, the Town Council shall determine after a public hearing whether there is cause to withhold or condition building permits or development orders during the following year. Such action, as updated periodically by the Town Council, shall empower the issuance of development permits where this assessment reasonably demonstrates that sufficient capacity will be available to serve all development that is reasonably expected to occur during the period of time approved by the town

council. This assessment and its conclusions shall be published by the town at least annually.

POLICY 11-B-8 **CONCURRENCY SHORTFALLS** — Should the annual concurrency assessment indicate problems with maintaining one or more of the adopted level-of-service standards during the coming year, the Town Council shall immediately take one or more of the following actions:

i. initiate a comprehensive plan amendment to modify the adopted level of service; or
ii. determine which types of development permits will have significant impacts on service levels, direct that such permits shall not be granted or shall be granted conditionally (with occupancy dependent upon achievement of the adopted level of service), and set a schedule for the re-assessment of that level of service; or
iii. immediately begin or accelerate capital improvements or other measures to offset any apparent deficiencies in levels of service. Examples would include upgrading potable water lines to improve water pressure; increasing sewage disposal or solid waste capacity; improving drainage or elevating evacuation routes at problem locations; adding recreational facilities; or improving public transit service, bicycle routes, and/or sidewalks to improve non-vehicular mobility.

The third alternative just listed is the preferred response of the Town of Fort Myers Beach to deficiencies in an adopted level of service, provided that the minimum concurrency requirements of this plan and state law are still met.

POLICY 11-B-9 **CONCURRENCY DEFERRALS AND EXEMPTIONS** — The town's concurrency management system shall allow deferrals and exemptions only as follows:

i. Some types of development applications do not contain a specific plan for development or authorize any actual development. Such applications shall not approved for concurrency compliance until a later stage of approvals where such impacts can be measured and then deducted from available capacity. The town may, however, evaluate probable concurrency impacts at these earlier stages as one factor in determining whether or not to approve such activities.
ii. Development applications will be exempted from the concurrency management system only if they will create zero or insignificant impacts on public facilities; any such exemptions shall be defined in the Land Development Code.

POLICY 11-B-10 **CONCURRENCY APPLICATION** — The town's concurrency management system shall be administered ~~by the same entity that reviews development proposals~~ in accordance with the remainder of the Land Development Code. ~~(at the time this plan was adopted, the Lee County Department of Community Development was providing that service under contract). However,~~ The preparation of the annual concurrency assessment shall be the responsibility of the Town Manager, and all decisions resulting from that assessment shall be made directly by the Town Council.

OBJECTIVE 11-C **CAPITAL FINANCING POLICIES —** Manage the fiscal resources of the town to ensure the equitable financing of needed public facilities and services.

POLICY 11-C-1 **EXISTING DEVELOPMENT** — Existing development shall be responsible for the costs of repairing and replacing existing public facilities and for capital improvements needed to eliminate pre-1998 deficiencies. This responsibility shall be discharged through the payment of property taxes, utility fees, gas taxes, sales taxes, user fees, and taxes and fees.

POLICY 11-C-2 **NEW DEVELOPMENT** — New development and redevelopment shall bear a proportionate share of the cost of providing new or expanded public facilities and infrastructure required to maintain service levels through payment of impact fees, connection fees, site-related developer dedications, developer contributions, and other lawfully imposed charges.

POLICY 11-C-3 **IMPACT FEES** — Impact fees for designated public facilities shall be set to capture a substantial proportion of the full and real cost of the designated facility, and shall be reviewed and updated regularly. ~~The town shall continue its participation in Lee County's impact fee program for community parks, fire, and emergency medical services, but shall request Lee County to turn over regional park impact fees for use in acquiring an additional beach access at the south end of Estero Island. The town shall also establish an independent impact fee program for transportation as described in the Transportation Element.~~

POLICY 11-C-4 **GENERAL FUND** — The town will develop specific policies as to the use of general governmental revenues for capital purposes, such as setting aside each year a portion of ad valorem taxes or other general revenues (such as sales taxes, gas taxes, or utility service taxes) for capital improvements.

POLICY 11-C-5 **GRANTS** — The town will actively seek grants from federal, state, and other sources where available and when appropriate for capital facility construction. Consideration will be given to limitations and restrictions involved in such grants.

POLICY 11-C-6 **INTERNAL CONSISTENCY** — Amendments and updates to the CIP and this Capital Improvements Element shall continue to support the Future Land Use Element, be consistent with all other elements of the comprehensive plan, and where appropriate, be consistent with all other state and regional plans.

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Application #: 2008-02-TEXT

Description: Add a new Public Schools Element to the comprehensive plan and make corresponding policy changes to the Intergovernmental Coordination and Capital Improvements Elements.

Pages to be changed: This is an entirely new element; the proposed pages are attached. Corresponding changes to Policies 14-A-4 and 11-A-7 are also provided in this report.

Discussion in E/A Report (adopted on Jan 16 '07):

"Significant growth management legislation was enacted by the 2005 Florida Legislature. School concurrency, an option available to local governments for the past twenty years, will now become mandatory.

"When this program is in place, residential development orders must be denied if there will not be adequate school capacity in the area to accommodate students that would be added by that development. Until now, only Palm Beach County has managed to adopt a school concurrency program that met state requirements.

"The legislation is clear that school concurrency must be a countywide program. Lee County, all municipalities, and the Lee County School District must now replace their 2002 interlocal planning agreement with an agreement that meets the new statutory requirements. Once that agreement is completed, each local government must adopt a public school facilities element, including a school concurrency program, in accordance with the interlocal agreement; these elements must be adopted before April 1, 2008."

Additional discussion: The attached draft contains an entirely new element of the comprehensive plan, as required by 2005 state legislation. In the existing plan, a brief discussion of school issues is found on page 4–36 and in Policy 4-B-14 of the Future Land Use Element, and on pages 14–4 and 14– 4 and Policy 14-A-4 of the Intergovernmental Coordination Element.

A state requirement is that a county and all of its cities must establish the identical level of service for public schools. The Lee County School District has negotiated interlocal agreements with the county and each city to that end. The level of service proposed in this element has been agreed upon by all parties and has been incorporated into the interlocal agreements.

For details about the requirements of the new legislation, please refer to these publications:

- www.dca.state.fl.us/fdcp/dcp/SchoolPlanning/schoolsbp.pdf

- www.dca.state.fl.us/fdcp/dcp/SchoolPlanning/LevelofService.pdf
- www.dca.state.fl.us/fdcp/dcp/SchoolPlanning/ProportionateShareMitigation.pdf

Action by LPA: During a public hearing on March 18, 2008, the LPA recommended that the Town Council approve this element with a number of clarifying changes (those changes were later incorporated into this report). The vote was 6 to 0; Alan Mandel was absent. ~~The minutes of the public hearing are attached.~~

Updates since LPA hearing:

(1) This element has been further updated since the LPA public hearing to reflect the latest Five-Year Facilities Work Program which was adopted by the School District in September 2008.

(2) Representatives of the Florida Department of Community Affairs have indicated recently that while adopting this Public Schools Element, local governments should make simultaneous changes to other elements of the Comprehensive Plan to maintain consistency among elements. Therefore the following proposed changes should be transmitted to DCA along with this new element:

(a) PROPOSED CHANGE TO THE INTERGOVERNMENTAL COORDINATION ELEMENT:

POLICY 14-A-4 Pursuant to ~~the 1996 amendments to~~ Chapter 163~~.3177~~ *F.S.* including amendments in 2005, the town shall cooperate with the Lee County and other municipalities within the county, the Lee County School Board and any unit of local government providing services in the county in the following activities:

i. Developing principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plans;

ii. Describing joint processes for collaborative planning and decision-making on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with countywide significance. These joint processes, including a formal interlocal agreement and the imposition of public school concurrency, shall comply with the Public Schools Element of this plan. The interlocal agreement is reprinted in the Public Schools Element; the town shall be bound by its terms as long as the agreement remains in effect.

The town will cooperate in establishing, by interlocal or other formal agreement executed by all affected entities, the joint processes described above~~, pursuant to the schedule to be established by the state land planning agency~~.

(B) PROPOSED ADDITION TO THE CAPITAL IMPROVEMENTS ELEMENT:

POLICY 11-A-7 Table 11-7 of this element presents the five-year schedule of capital improvements to be undertaken by the Town of Fort Myers Beach. This schedule will be updated each year through an amendment to this plan to correspond with revisions to the capital improvements program made by the town during its annual budget process.

i. To comply with § 163.3180(13)(d), *F.S.*, the required five-year schedule of capital improvements also includes the capacity-enhancing school improvements and summary of estimated revenues as presented by the Lee County School District through its Five-Year District Facilities Work Program, as updated each September. For FY 2008/09 through 2012/13, the specific capacity-enhancing school improvements are listed in Table 16-7 of the Public Schools Element and the formal demonstration that those improvements meet all requirements of state law is set forth in that element.

ii. To comply with § 163.3177(3)(a)5, F.S., any capital improvements that Lee County Utilities needs to construct to achieve or maintain the potable water level of service in this plan during the next five years will be included in the town's five-year schedule of capital improvements.

Action by Town Council: During a public hearing on November 17, 2008, the Town Council voted 4 to 1 to transmit this amendment for state review.

DCA Objection B-5: *"**Data and Analysis:** The proposed Public Schools Element is not supported by appropriate and relevant data and analysis required under Section 163.3177(12)(c), F.S., and Rule 9J-5.025, F.A.C., regarding the following: (1) a map or maps depicting the existing location of public school facilities by type and existing location of ancillary plants; and (2) school facilities needed for each concurrency service area to accommodate projected enrollment at the adopted level of service standard each year for the five-year planning period, and for the end of the long-range planning period of the host county, including ancillary plants and land area requirements."*

DCA Recommendation: *"Revise the Public Schools Element to be supported by the data and analysis identified above."*

Response to DCA: (1) The requested map has already been provided in several places. First, it is published within the school district's Draft Public School Facilities Element as referenced on Page 16-23. That same map is reprinted in this element as Figure 3 on Page 16-4 and included again as part of the attached interlocal agreement which begins after Page 16-23. A map of the only school within the town's boundaries is included as Figure 2 on Page 16-3. (None of these maps include "ancillary plants," which the statute might have termed bus barns, book warehouses, or administrative facilities; however, by interlocal agreement those facilities are not part of the level-of-service standard and therefore are not relevant to this map.)

(2) Future schools that will be needed to meet the level-of-service standard are identified in Table 16-2. The specific concurrency service area is indicated for each of these schools, but in some cases the final site has not yet been selected and thus cannot be mapped in any meaningful way. The exact location of future schools within a concurrency service area has no significance with regards to the level of service.

DCA Objection B-6: *"**Concurrency Exemption:** The Public Schools Element Policy 16-C-1.iv provides for exemptions from school concurrency, including an exemption for "other uses as provided in the code amendments." This exemption does not establish meaningful and predictable guidelines and does not ensure the provision of school facilities for residential development consistent with Sections 163.3177(12) and 163.3180(13), F.S."*

DCA Recommendation: *"Revise the amendment to delete the exemption."*

Response to DCA: The exemption in Policy 16-C-1 for "other uses as provided in the code amendments" has been deleted as requested.

DCA Objection B-7-a: *"**Maps, Objectives and Policies:** The proposed Public Schools Element and proposed amendments to the Intergovernmental Coordination Element do not propose adoption of the required map series or include plan objectives and policies addressing the following requirements:*

a. An objective to coordinate the location of public schools with the future land use map or map series of the relevant jurisdiction to ensure that existing and proposed school facilities are located consistent with the existing and proposed residential areas they serve and are proximate to appropriate existing and future land uses. The use of schools to serve as community focal points should also be addressed.

DCA Recommendation: *"Revise the Public Schools Facilities Element to include the plan objectives, policies, and maps identified above."*

Response to DCA: The Fort Myers Beach Comprehensive Plan complied with these requirements even before this amendment. The plan contains actual policies on these matters, not merely objectives that measure whether or not the desired outcome is being reached.

Proposed Policy 16-A-1 basically restates the existing Policy 4-B-14, which has been in the Future Land Use Element since 1999. The existing school at Fort Myers Beach is a long-time community focal point, as discussed on existing Page 4-36 and proposed Pages 16-2 and 16-19. Proposed Policy 16-A-4 encourages other public agencies to make this even more so when locating new parks, libraries, and community centers.

Policies 16-A-1 and 16-A-4 have been reworded to make compliance even clearer.

DCA Objection B-7-b: *b. A policy to include standards for revision of concurrency service area boundaries to ensure that the utilization of school capacity is maximized to the greatest extent possible, taking into account transportation costs, court approved desegregation plans, as well as other factors. Policy 16-B-3 establishes guidelines and standards for modifications to "these standards" but does not specifically identify that this applies to the current concurrency service areas and/or changes in the use of schools.*

DCA Recommendation: *"Revise the Public Schools Facilities Element to include the plan objectives, policies, and maps identified above."*

Response to DCA: Policy 16-B-3 has been reworded to clarify that it applies to both concurrency service areas and level-of-service standards.

DCA Objection B-7-c: *c. A policy which requires the adoption of annual plan amendments adding a new fifth year, updating the financially feasible public schools capital facilities program, coordinating the program with the 5-year district facilities work plan, the plans for other local governments, and, as necessary, updates to the concurrency service area map. The annual plan amendments shall ensure that the capital improvements program continues to be financially feasible and that the level of service standards will continue to be achieved and maintained. Public Schools Element Policy 16-D-1 includes some of the required language, but does not fully address the statutory and Rule requirements.*

DCA Recommendation: *"Revise the Public Schools Facilities Element to include the plan objectives, policies, and maps identified above."*

Response to DCA: Existing Policy 11-A-7 (see page 2 of this report) is being expanded in part to meet these requirements.

Proposed Policy 16-D-1 has been expanded to further address these requirements.

DCA Objection B-7-d: *d. A policy addressing coordination of the annual review of the element with the school board, the county and applicable municipalities; coordination of annual review of school enrollment projections, and establishing the procedures for the annual update process.*

DCA Recommendation: *"Revise the Public Schools Facilities Element to include the plan objectives, policies, and maps identified above."*

Response to DCA: These matters are thoroughly addressed in the Interlocal Agreement. A new Policy 16-A-6 has been added to make this clear.

DCA Objection B-7-e: *e. A policy addressing coordination of school site selection, permitting, and collocation of school sites with other public facilities such as parks, libraries and community centers. While the Town provides an extensive discussion of the existing collocated facilities, the policy language is not included.*

DCA Recommendation: *"Revise the Public Schools Facilities Element to include the plan objectives, policies, and maps identified above."*

Response to DCA: Policies 16-A-1 and 16-A-4 have been reworded to follow this recommendation.

DCA Objection B-7-f: *f. A policy addressing coordination of the long range public school facility map with the local government's comprehensive plan, including the future land use map.*

DCA Recommendation: *"Revise the Public Schools Facilities Element to include the plan objectives, policies, and maps identified above."*

Response to D`CA: Policy 16-A-1 has been reworded to follow this recommendation.

DCA Objection B-7-g: *g. A future conditions map or map series which depicts the planned general location of public school facilities and ancillary plants and renovated facilities by year for the five year planning period, and for the end of the long range planning period of the host county.*

DCA Recommendation: *"Revise the Public Schools Facilities Element to include the plan objectives, policies, and maps identified above."*

Response to DCA: This requirement was discussed earlier under DCA's Objection B-5; the required five-year map has already been published in three different places.

The Lee County School District does not plan specific new schools beyond the five-year planning period shown on this map and in Table 16-2. An additional map purporting to be for a longer period would be dishonest because it would not be based on actual planning activities of any level of government.

DCA Objection B-7-h: *h. The Intergovernmental Coordination Element does not include a policy addressing joint processes for collaborative planning and decision making on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with countywide significance.*

DCA Recommendation: *"Revise the Intergovernmental Coordination Element to include the policies identified above."*

Response to DCA: This requirement has been met by the proposed revisions to Policy 14-A-4, as shown on Page 2 of this report. Many of the details are spelled out in the Public Schools Element and in the interlocal agreement.

DCA Objection B-7-i: *i. The Intergovernmental Coordination Element does not include a policy requiring an interlocal agreement with the district school board, the county, and nonexempt municipalities pursuant to s. 163.31777, F.S., and providing that coordination between the local government and school board is pursuant to the agreement and shall state the obligations of the local government under the agreement.*

DCA Recommendation: *"Revise the Intergovernmental Coordination Element to include the policies identified above."*

Response to DCA: The proposed revisions to Policy 14-A-4 as proposed on Page 2 of the staff report have been expanded to more clearly track the statutory language.

DCA Objection B-8: *"**Financial Feasibility:** Capital Improvements Element Policy 11-A-7, states, "Table 11-7 of the proposed Amendment presents the five-year schedule of capital improvements to be undertaken by the Town of Fort Myers Beach….To comply with § 163.3180(13)(d), F.S., the required five-year schedule of capital improvements also includes the capacity-enhancing school improvements and summary of estimated revenues as presented by the Lee County School District through its Five-Year District Facilities Work Program, as updated each September. For FY 2008/09 through 2012/13, the specific capacity-enhancing school improvements are listed in Table 16-7 of the Public Schools Element and the formal demonstration that those improvements meet all requirements of state law is set forth in that element.*

"Table 16-7 of the Public Schools Element, is inconsistent with the adopted Lee County School District's 2008-2009 District Facilities Five Year Work Plan, dated September 9, 2008. The numerical totals do not match the totals listed in the "Capacity Project Schedule" and "Other Project Schedule" Tables in the 2008-2009 District Facilities Five Year Work Plan. Therefore, the proposed Public Education Facilities Element is not demonstrated to be financially feasible.

"In addition, the proposed Five-Year Schedule of Capital Improvements does not identify the project cost, funding source, and timing for the following three school capacity projects: (1) New Elementary South Zone; (2) New Elementary West Zone; and (3) New Elementary East Zone. The Five-Year Schedule has not been demonstrated to be financially feasible for these projects."

DCA Recommendation: *"In order to demonstrate financial feasibility at the time of adoption of this Amendment, revise Table 16-7 of the Public Schools Element to incorporate the exact Project Schedule and Revenue tables from the Lee County School District's 2008-2009 District Facilities Five Year Work Plan, dated September 9, 2008. Alternatively revise the policy to adopt by reference the Lee County School District's annually updated financially feasible Lee County School District's 2008-2009 District Facilities Five Year Work Plan. The policy and/or actual tables should include a reference that identifies the document by title, volume and date." To comply with Rule 9J-5.005(2)(g), F.A.C., documents adopted by reference that are revised subsequent to Plan adoption will need to have their reference updated within the Plan*

through the annual amendment process. The policy or table should indicate the date, title, author and volume of the document being referenced, and where possible the applicable pages."

Response to DCA: The school district supplied two official documents to the town in October 2008 which provide slightly conflicting information on the district's plans to build new schools over the coming five years.

Table 16-7 was based on the *Draft Public School Facilities Element*, whereas the DCA objection says it should have been based on the *Five Year Work Plan*. Table 16-7 has now been adjusted in accordance with DCA's latest instructions.

DCA Comment B-9: *"**Comment Only:** At the end of the proposed Public Schools Element, the Town includes a reference to the "Draft Lee Public School Facilities Element, prepared by Lee County School District, revised October 2008."*

"The Department recommends that the Town revise the Amendment to reference, as a source of data and anlysis in support of the Element, the adopted Lee County Public Education Facilities Amendment, DCA Number 09-1, approved by Ordinance 08-21 on September 11, 2008. The entire Amendment file can be accessed through the following links, which could be incorporated into the Element consistent with the existing format.

http://dcapapers.eoconline.org/FloridaPAPERS/FlashAug16/Model/documentView.cfm?UserID=6239&AreaID=11&DocumentID=435854"

DCA Recommendation: [none]

Response to DCA: This suggestion is being accepted; the list of references on Page 16-23 has been modified accordingly.

Proposed Final Action: The Town Council should adopt this revised amendment, as described above, as part of Ordinance 09-03.

Final Action: The Town Council adopted this revised amendment on August 17, 2009, as part of Ordinance 09-03. (Text shown in red is new or has changed since the initial transmittal of this amendment in January 2009.)

PUBLIC SCHOOLS ELEMENT

INTRODUCTION

Public schools are critical to the well-being and future of any community. Coordinated planning among the Lee County School District, Lee County government, and the five municipalities can ensure that public school capacity is available to meet the needs created by future growth.

The local governments participating in this school concurrency program are Lee County, the town of Fort Myers Beach, and the cities of Fort Myers, Cape Coral, Bonita Springs, and Sanibel. Each local government is entering into an interlocal agreement with the school district to establish common parameters from public school concurrency.

This element establishes public school concurrency requirements triggered by a level-of-service standard for public schools, as required by recent state legislation. School concurrency will ensure that the public school facilities needed to maintain the adopted level of service are in place before or concurrent with the school impacts of new residential development.

LEGAL BACKGROUND

In 2005 the Florida Legislature began requiring each local government to adopt a public schools element as part of its Comprehensive Plan and to amend other elements to implement public school concurrency.[1]

[1] *Laws of Florida 2005-290, formerly known as Senate Bill 360*

This element must establish a level of service for public schools and also addresses school utilization, school proximity and compatibility with residential development, availability of public infrastructure, co-location opportunities for other public facilities, and financial feasibility of school expansion plans.

CHANGES IN STUDENT POPULATION

Very little vacant land remains at Fort Myers Beach. The number of additional students that will live within the town and use the public school system will be low.

The town's 2007 Evaluation/Appraisal Report estimated the following number of vacant lots: 14 on the beachfront; 49 on canals; and 43 inland lots. In addition, one multifamily building of 40 dwelling units remains to be constructed at Bay Beach, and about 6 dwelling units may be built on a vacant beachfront parcel near the Carousel Motel. Additional residential units will be constructed as some existing commercial parcels are redeveloped as mixed-use buildings.

It is possible to forecast the number of students who will reside in a new residential development based on countywide data. A "student generation multiplier" was determined by Lee County in 2008 as part of a school impact fee study. This multiplier is applied to the proposed development's number and type of residential dwelling units; the product is the number of students that should be expected. The multipliers are:

- Single-family home: 0.299 students per unit
- Multifamily: 0.118 students per unit

Applying these multipliers to anticipated additional residential development yields a total of only about 50–70 additional students at build-out of the town.

PUBLIC SCHOOL SYSTEM

The Florida Department of Education requires each school district to implement a financially feasible "Five-Year Capital Facilities Plan" that provides for school capacity improvements to accommodate projected student growth.[2] Improvements which increase the capacity of schools and which are budgeted and programmed for construction within the first three years of the plan are considered "committed" projects for concurrency purposes, as discussed later.

Currently, the school district operates 93 public schools from pre-kindergarten to 12th grade:

- 43 elementary schools and 4 K-8 schools
- 17 middle schools
- 13 high schools
- 13 special centers and 3 high-tech centers

Recent state-mandated changes, such as early childhood education and class size limitations, have affected the capacity of school district facilities. Within the current five-year plan, the following improvements will provide new capacity by 2011:

- 4 new elementary schools
- 2 new middle schools
- 1 elementary school replacement (increasing capacity by 308 student stations)

Florida school districts follow the same boundaries as counties. There is only school within the Town of Fort Myers Beach, the historic public elementary school on Oak Street (see Figures 1 and 2). This school serves grades K through 5, with enrollment fluctuating from 165 to its current capacity of 200 students, all of whom live (at least seasonally) on Estero or San Carlos Islands or have parents who work there. Adding middle-school classrooms to this school would be warmly welcomed by town residents.

[2] *The most recent work plan, for 2008-2009, is available here: http://planning.leeschools.net/Data/08WkPlanFinal.pdf*

Figure 1, Fort Myers Beach Elementary School

The school is on an 11-acre site, 7.8 acres of which are buildable uplands. Excellent community facilities are adjacent, including the public library, Bay Oaks park, Matanzas Pass Preserve, and a public swimming pool. (This clustering of public facilities is consistent with the state law's encouragement of the "co-location" of schools with parks, libraries, and community centers.)

The elementary school does not need to be expanded to meet future demands. The only change planned is to convert one primary classroom into a pre-kindergarten classroom for exceptional students. If unexpected enrollment increases were to occur, the school district's busing program could transfer students to off-island schools; also, ample room remains on the current site for expansion. Although there is no apparent or expected need for additional space, should such a need occur, it could be accommodated by expanding the current school.

According to the 2000 Census, the following number of school-aged children resided within the town:

- 143 from 5 to 9 years old (2.2% of the population)
- 151 from 10 to 14 years old (2.3% of the population)164 from 15 to 19 years old (2.5% of the population)
- 164 from 15 to 19 years old (2.5% of the population)

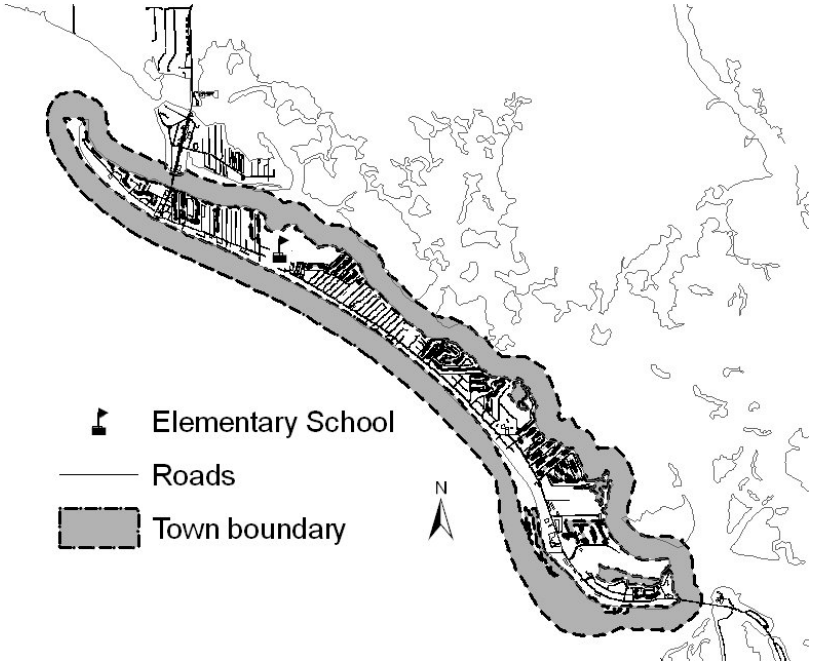

Figure 2, Fort Myers Beach Elementary School

Since 1998, the Lee County School District has operated under a "school choice" program. The School District was divided into three "student assignment zones" (south, east, and west), plus several sub-zones (see Figure 3). Fort Myers Beach is in the south zone, sub-zone S-4. Generally, students may be assigned to a school in their sub-zone or an adjacent sub-zone within the same zone; for example, a student living in S4 may also attend a school in S1, S2, or S3.

Prior to the beginning of the school year, parents select from a variety of schools close to where they live. Once the application period ends, each application is assigned a random number that determines the order in which the application is processed. Applications are sorted giving priority to siblings wanting to attend the same school, students living near each school, students whose first choice is a school within their sub-zone, and students in full-time special education classes. The remaining applications are processed in order of their random numbers until all applications have been assigned.

Under the school choice program, children who are enrolled in a school can remain in that school through its highest grade unless they move to a different zone or sub-zone for which that school is not an option. Since the school choice program began, the district has tried to balance program offerings in each zone so that children do not have to attend schools in another zone to access a particular program. By limiting the choices to adjacent sub-zones, transportation costs have been kept manageable.

Table 16-1 shows the projected growth rate by grade level for the entire Lee County School District:

Table 16-1 — Student Growth Rates by Grade Level - Recent and Projected

Grade	*Actual 2007-08*	*Forecast 2008-09*	*Forecast 2009-10*	*Forecast 2010-11*	*Forecast 2011-2012*	*Forecast 2012-2013*
Pre-K	611	676	736	806	854	883
Grade K	5,976	6,162	6,100	6,770	7,547	8,183
Grade 1	5,865	5,955	5,943	5,890	6,476	7,243
Grade 2	5,547	5,883	5,803	5,785	5,732	6,289
Grade 3	5,601	5,915	6,080	6,014	5,986	5,953
Grade 4	5,275	5,408	5,533	5,676	5,609	5,596
Grade 5	5,449	5,467	5,431	5,544	5,674	5,621
Grade 6	5,188	5,590	5,453	5,418	5,528	5,683
Grade 7	5,390	5,332	5,549	5,414	5,362	5,474
Grade 8	4,977	5,327	5,116	5,311	5,184	5,149
Grade 9	5,590	5,273	5,348	5,257	5,477	5,495
Grade 10	5,524	5,133	4,683	4,651	4,562	4,711
Grade 11	5,063	5,474	4,998	4,505	4,379	4,258
Grade 12	4,578	4,953	5,190	4,701	4,205	4,073
Total	**70,634**	**72,548**	**71,963**	**71,742**	**72,575**	**74,611**

SOURCE: Table PSFE 9, Draft Public School Facilities Element, prepared by the Lee County School District, October 2008

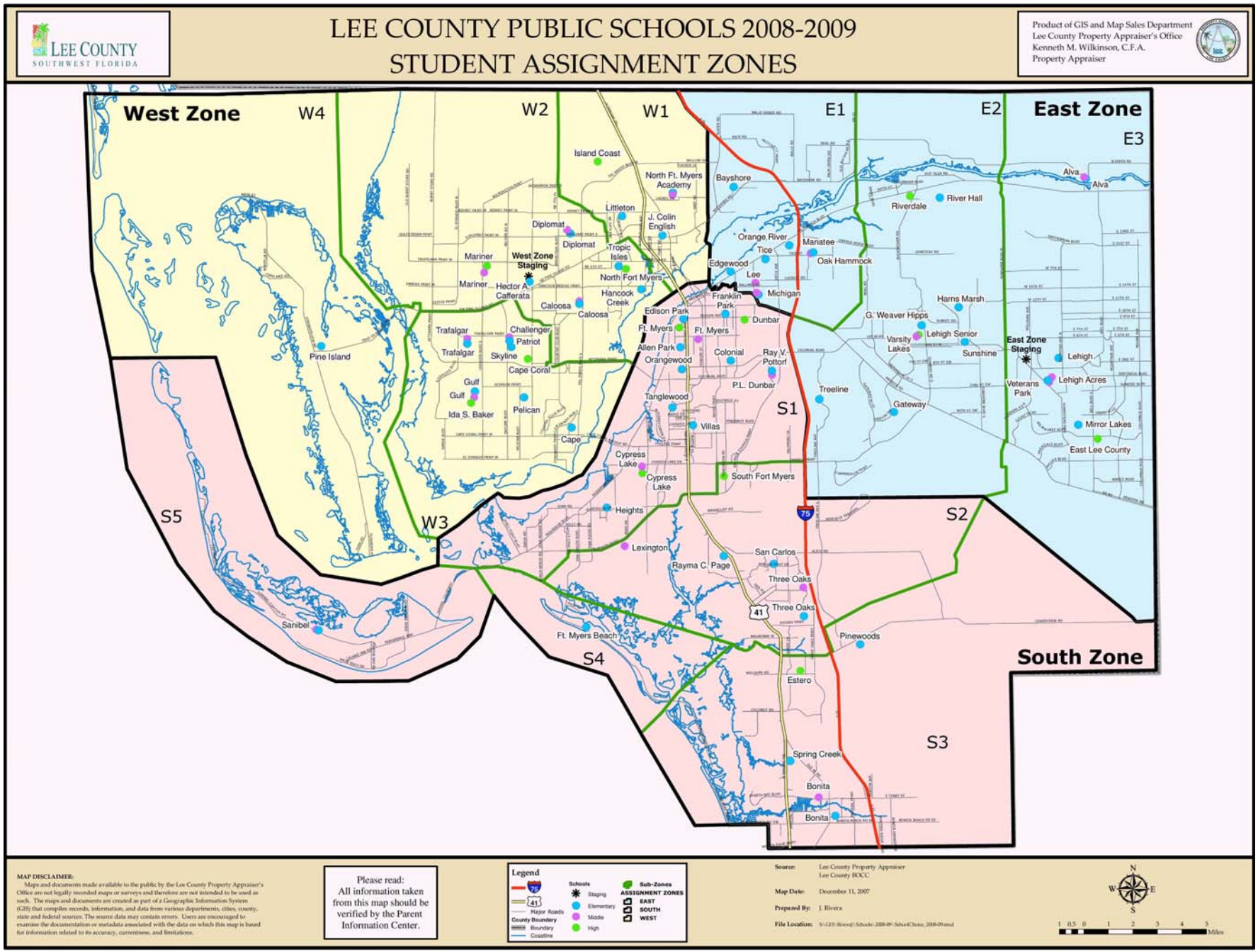

Figure 3, Student Assignment Zones

FUTURE CAPACITY ANALYSIS

Tables 16-2, 16-3, 16-4, and 16-5 provide a breakdown of the enrollment and school capacity for School Year 2008/2009 and projections for four additional years. This table indicates the student assignment zone (and sub-zone) where each school is located. These figures exclude charter schools which are funded by but not operated by the School District. School capacity figures are based on the capacity analysis in the Florida Inventory of School Houses.

The School District sometimes addresses capacity deficiencies at individual schools is through the use of relocatables (portable classrooms). The District currently uses relocatables to accommodate 5,603 students but plans to phase them out over the next five years.

The School District constantly monitors development trends to determine where new schools will be needed. The expected cost and timing of these schools is adjusted to match to available revenue sources. New schools have been added to Tables 16-2 through 16-5 to determine how well they will meet the demand of new students in each of the three school assignment zones.

CONCURRENCY BOUNDARIES

School concurrency is based on a measurement of available school capacity within a defined geographical area, called a "concurrency service area" (CSA).

The School District, the county, and the cities have agreed to use the three "student assignment zones," as shown on Figure 3, as CSAs. State legislation encourages CSAs to be county-wide during the early years of school concurrency and then become more geographically targeted as the program evolves.[3] However, the School District has demonstrated that it has a financially feasible plan to provide adequate school capacity in all three zones over the coming five years and has been a strong advocate of the smallest possible CSAs as early as possible. The School District would prefer to use sub-zones rather than zones for CSAs immediately, but county and some city officials were unwilling to do so at least in the early years of the concurrency program.

[3] *Florida Statutes § 163.3180(13)(c)*

Table 16-2 — Projections for SOUTH Zone, By School Type and By Sub-Zone

SCHOOL	2008/2009			2009/2010			2010/2011			2011/2012			2012/2013			2013/2014		
	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%
S1																		
Allen Park Elementary	880	1,056	83%	890	1,056	84%	878	1,056	83%	860	1,010	85%	848	1,010	84%	895	1,010	89%
Colonial Elementary	684	965	71%	813	965	84%	802	965	83%	792	930	85%	781	930	84%	824	930	89%
Edison Park Elementary	385	449	86%	378	449	84%	373	449	83%	371	436	85%	366	436	84%	386	436	89%
Franklin Park Elementary	506	579	87%	488	579	84%	481	579	83%	485	570	85%	479	570	84%	505	570	89%
Heights Elementary	824	1,306	63%	1,101	1,306	84%	1,085	1,306	83%	1,112	1,306	85%	1,097	1,306	84%	1,158	1,306	89%
Orangewood Elementary	688	637	108%	537	637	84%	529	637	83%	468	549	85%	461	549	84%	487	549	89%
Ray V. Pottorf Elementary	604	912	66%	769	912	84%	758	912	83%	746	876	85%	736	876	84%	777	876	89%
Tanglewood Elementary	679	793	86%	668	793	84%	659	793	83%	636	747	85%	627	747	84%	662	747	89%
Villas Elementary	788	943	84%	795	943	84%	784	943	83%	730	857	85%	720	857	84%	760	857	89%
Elementary Total	**6038**	**7,640**	**79%**	**6,438**	**7,640**	**84%**	**6,350**	**7,640**	**83%**	**6,201**	**7,281**	**85%**	**6,116**	**7,281**	**84%**	**6,454**	**7,281**	**89%**
Cypress Lake Middle	749	880	85%	747	880	85%	741	880	84%	736	860	86%	755	860	88%	763	860	89%
P.L. Dunbar Middle	907	1,013	90%	860	1,013	85%	853	1,013	84%	838	980	86%	860	980	88%	869	980	89%
Fort Myers Middle	694	858	81%	729	858	85%	723	858	84%	740	865	86%	759	865	88%	767	865	89%
Middle Total	**2350**	**2,751**	**85%**	**2,336**	**2,751**	**85%**	**2,318**	**2,751**	**84%**	**2,313**	**2,705**	**86%**	**2,374**	**2,705**	**88%**	**2,399**	**2,705**	**89%**
Cypress Lake High School	1348	1,727	78%	1,451	1,727	84%	1,341	1,727	78%	1,293	1,680	77%	1,248	1,680	74%	1,243	1,680	74%
Dunbar High School	1002	1,242	81%															
Fort Myers High School	1689	1,964	86%	1,650	1,964	84%	1,525	1,964	78%	1,497	1,945	77%	1,445	1,945	74%	1,439	1,945	74%
High Total	**4039**	**4,933**	**82%**	**3,101**	**3,691**	**84%**	**2,865**	**3,691**	**78%**	**2,791**	**3,625**	**77%**	**2,693**	**3,625**	**74%**	**2,683**	**3,625**	**74%**
S2																		
Rayma C. Page Elementary	656	836	78%	704	836	84%	695	836	83%	731	858	85%	721	858	84%	761	858	89%
San Carlos Elementary	878	1,081	81%	911	1,081	84%	898	1,081	83%	851	999	85%	839	999	84%	886	999	89%
Three Oaks Elementary	738	738	100%	622	738	84%	613	738	83%	598	702	85%	590	702	84%	622	702	89%
Elementary Total	**2272**	**2,655**	**86%**	**2,237**	**2,655**	**84%**	**2,207**	**2,655**	**83%**	**2,180**	**2,559**	**85%**	**2,149**	**2,559**	**84%**	**2,268**	**2,559**	**89%**
Lexington Middle	890	1,027	87%	872	1,027	85%	865	1,027	84%	873	1,021	86%	896	1,021	88%	905	1,021	89%
Three Oaks Middle	802	987	81%	838	987	85%	831	987	84%	844	987	86%	866	987	88%	875	987	89%
Middle Total	**1692**	**2,014**	**84%**	**1,710**	**2,014**	**85%**	**1,697**	**2,014**	**84%**	**1,717**	**2,008**	**86%**	**1,762**	**2,008**	**88%**	**1,781**	**2,008**	**89%**
S Ft Myers High School	1425	1,926	74%	1,618	1,926	84%	1,495	1,926	78%	1,447	1,879	77%	1,396	1,879	74%	1,391	1,879	74%
High Total	**1425**	**1,926**	**74%**	**1,618**	**1,926**	**84%**	**1,495**	**1,926**	**78%**	**1,447**	**1,879**	**77%**	**1,396**	**1,879**	**74%**	**1,391**	**1,879**	**74%**

Table 16-2 — Projections for SOUTH Zone, By School Type and By Sub-Zone (continued)

SCHOOL	2008/2009			2009/2010			2010/2011			2011/2012			2012/2013			2013/2014		
	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%
S3																		
Bonita Springs Elementary	441	389	113%	328	389	84%	323	389	83%	326	383	85%	322	383	84%	340	383	89%
Pinewoods Elementary	932	1044	89%	880	1044	84%	868	1044	83%	882	1035	85%	869	1035	84%	918	1035	89%
Spring Creek Elementary	711	753	94%	635	753	84%	625	753	83%	641	753	85%	632	753	84%	668	753	89%
Elementary Total	**2084**	**2186**	**95%**	**1842**	**2186**	**84%**	**1816**	**2186**	**83%**	**1849**	**2171**	**85%**	**1824**	**2171**	**84%**	**1925**	**2171**	**89%**
Bonita Springs Middle	647	876	74%	745	876	85%	737	876	84%	725	847	86%	744	847	88%	751	847	89%
Middle Total	**647**	**876**	**74%**	**745**	**876**	**85%**	**737**	**876**	**84%**	**725**	**847**	**86%**	**744**	**847**	**88%**	**751**	**847**	**89%**
Estero High School	1427	1695	84%	1425	1695	84%	1316	1695	78%	1275	1657	77%	1231	1657	74%	1225	1657	74%
High Total	**1427**	**1695**	**84%**	**1425**	**1695**	**84%**	**1316**	**1695**	**78%**	**1276**	**1657**	**77%**	**1232**	**1657**	**74%**	**1225**	**1657**	**74%**
S1 Total	6038	7640	79%	6438	7640	84%	6350	7640	83%	6201	7281	85%	6116	7281	84%	6454	7281	89%
S2 Total	2272	2655	86%	2237	2655	84%	2207	2655	83%	2180	2559	85%	2149	2559	84%	2268	2559	89%
S3 Total	2084	2186	95%	1842	2186	84%	1816	2186	83%	1849	2171	85%	1824	2171	84%	1925	2171	89%
Elementary Total	**10394**	**12481**	**83%**	**10517**	**12481**	**84%**	**10373**	**12481**	**83%**	**10230**	**12011**	**85%**	**10089**	**12011**	**84%**	**10647**	**12011**	**89%**
	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%
S1 Total	2350	2751	85%	2336	2751	85%	2318	2751	84%	2313	2705	86%	2374	2705	88%	2399	2705	89%
S2 Total	1692	2014	84%	1710	2014	85%	1697	2014	84%	1717	2008	86%	1762	2008	88%	1781	2008	89%
S3 Total	647	876	74%	745	876	85%	737	876	84%	725	847	86%	744	847	88%	751	847	89%
Middle Total	**4689**	**5641**	**83%**	**4791**	**5641**	**85%**	**4752**	**5641**	**84%**	**4755**	**5560**	**86%**	**4880**	**5560**	**88%**	**4931**	**5560**	**89%**
	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%
S1 Total	4039	4933	82%	3101	3691	84%	2865	3691	78%	2791	3625	77%	2693	3625	74%	2683	3625	74%
S2 Total	1425	1926	74%	1618	1926	84%	1495	1926	78%	1447	1879	77%	1396	1879	74%	1391	1879	74%
S3 Total	1427	1695	84%	1425	1695	84%	1316	1695	78%	1275	1657	77%	1232	1657	74%	1225	1657	74%
High Total	**6891**	**8554**	**81%**	**6144**	**7312**	**84%**	**5676**	**7312**	**78%**	**5513**	**7,161**	**77%**	**5321**	**7161**	**74%**	**5299**	**7161**	**74%**

SOURCE: Table PSFE 12, Draft Public School Facilities Element, prepared by the Lee County School District, October 2008

Table 16-3 — Projections for EAST Zone, By School Type and By Sub-Zone

SCHOOL	2008/2009			2009/2010			2010/2011			2011/2012			2012/2013			2013/2014		
	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%
E1																		
Bayshore Elementary	590	693	85%	581	693	84%	604	693	87%	570	639	89%	566	639	89%	630	639	99%
Edgewood Elementary	479	741	65%	622	741	84%	645	741	87%	636	713	89%	632	713	89%	703	713	99%
Manatee Elementary	765	1042	73%															
Michigan Int. Elem.	366	442	83%	629	750	84%	653	750	87%	669	750	89%	665	750	89%	739	750	99%
Orange River Elem.	766	817	94%	685	817	84%	712	817	87%	682	765	89%	678	765	89%	754	765	99%
Tice Elementary	545	587	93%	492	587	84%	511	587	87%	481	539	89%	478	539	89%	531	539	99%
Elementary Total	**3511**	**4322**	**81%**	**3010**	**3588**	**84%**	**3125**	**3588**	**87%**	**3038**	**3406**	**89%**	**3019**	**3406**	**89%**	**3357**	**3406**	**99%**
Lee Middle	462	926	50%	769	926	83%	780	926	84%	796	917	87%	802	917	87%	658	917	72%
Michigan Int'l Middle	118	221	53%															
Oak Hammock Middle	794	1192	67%															
Middle Total	**1374**	**2339**	**59%**	**769**	**926**	**83%**	**780**	**926**	**84%**	**796**	**917**	**87%**	**802**	**917**	**87%**	**658**	**917**	**72%**
Dunbar High				867	1242	70%	813	1242	65%	638	983	65%	634	983	65%	631	983	64%
High Total	**0**	**0**		**867**	**1242**	**70%**	**813**	**1242**	**65%**	**638**	**983**	**65%**	**634**	**983**	**65%**	**631**	**983**	**64%**
E2																		
Gateway Elementary	749	758	99%	636	758	84%	660	758	87%	607	680	89%	603	680	89%	670	680	99%
Harns Marsh Elementary	898	912	98%	765	912	84%	794	912	87%	778	872	89%	773	872	89%	859	872	99%
Manatee Elementary				874	1042	84%	908	1042	87%	929	1042	89%	924	1042	89%	1027	1042	99%
River Hall Elementary	873	1046	83%	876	1046	84%	911	1046	87%	910	1020	89%	904	1020	89%	1005	1020	99%
Sunshine Elementary	1152	1191	97%	999	1191	84%	1037	1191	87%	988	1108	89%	982	1108	89%	1092	1108	99%
Treeline Elementary	850	1034	82%	867	1034	84%	901	1034	87%	922	1034	89%	916	1034	89%	1019	1034	99%
Elementary "V"										922	1034	89%	916	1034	89%	1019	1034	99%
Elementary "W"													916	1034	89%	1019	1034	99%
Elementary Total	**4522**	**4941**	**92%**	**5018**	**5983**	**84%**	**5212**	**5983**	**87%**	**6056**	**6790**	**89%**	**6935**	**7824**	**89%**	**7711**	**7824**	**99%**
Oak Hammock Middle				990	1192	83%	1005	1192	84%	1035	1192	87%	1043	1192	87%	855	1192	72%
Varsity Lakes	910	1024	89%	851	1024	83%	863	1024	84%	864	995	87%	870	995	87%	713	995	72%
Middle "LL"																860	1200	72%
Middle Total	**910**	**1024**	**89%**	**1841**	**2216**	**83%**	**1868**	**2216**	**84%**	**1900**	**2187**	**87%**	**1913**	**2187**	**87%**	**2429**	**3387**	**72%**
Lehigh Senior	1516	1732	88%	1208	1732	70%	1133	1732	65%	1112	1713	65%	1105	1713	65%	1100	1713	64%
Riverdale High School	1706	1926	89%	1343	1926	70%	1260	1926	65%	1251	1926	65%	1242	1926	65%	1237	1926	64%
High Total	**3222**	**3658**	**88%**	**2551**	**3658**	**70%**	**2393**	**3658**	**65%**	**2363**	**3639**	**65%**	**2347**	**3639**	**65%**	**2337**	**3639**	**64%**

Table 16-3 — Projections for EAST Zone, By School Type and By Sub-Zone (continued)

SCHOOL	2008/2009			2009/2010			2010/2011			2011/2012			2012/2013			2013/2014		
	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%
E3																		
Alva Elementary	412	391	105%	328	391	84%	341	391	87%	269	302	89%	268	302	89%	298	302	99%
Lehigh Elementary*				867	1034	84%	901	1034	87%	922	1034	89%	916	1034	89%	1019	1034	99%
Mirror Lakes Elementary	1027	1061	97%	890	1061	84%	924	1061	87%	892	1000	89%	886	1000	89%	986	1000	99%
Veterans Park Elementary	891	1178	76%	988	1178	84%	1026	1178	87%	963	1080	89%	957	1080	89%	1064	1080	99%
East Zone Staging **	792	758	104%	636	758	84%	660	758	87%	676	758	89%	672	758	89%	747	758	99%
Elementary Total	**3122**	**3388**	**92%**	**3710**	**4422**	**84%**	**3852**	**4422**	**87%**	**3723**	**4174**	**89%**	**3699**	**4174**	**89%**	**4114**	**4174**	**99%**
Alva Middle	560	513	109%	426	513	83%	432	513	84%	446	513	87%	449	513	87%	368	513	72%
Lehigh Acres Middle	1025	1057	97%	878	1057	83%	891	1057	84%	875	1007	87%	881	1007	87%	722	1007	72%
Veterans Park Middle	600	589	102%	489	589	83%	496	589	84%	469	540	87%	472	540	87%	386	540	72%
Middle Total	**2185**	**2159**	**101%**	**1794**	**2159**	**83%**	**1820**	**2159**	**84%**	**1789**	**2060**	**87%**	**1802**	**2060**	**87%**	**1476**	**2060**	**72%**
East Lee County High	1623	1946	83%	1357	1946	70%	1273	1946	65%	1263	1946	65%	1255	1946	65%	1250	1946	64%
High Total	**1623**	**1946**	**83%**	**1357**	**1946**	**70%**	**1273**	**1946**	**65%**	**1263**	**1946**	**65%**	**1255**	**1946**	**65%**	**1250**	**1946**	**64%**
E1 Total	3511	4322	81%	3010	3588	84%	3125	3588	87%	3038	3406	89%	3019	3406	89%	3357	3406	99%
E2 Total	4522	4941	92%	5018	5983	84%	5212	5983	87%	6056	6790	89%	6935	7824	89%	7711	7824	99%
E3 Total	3122	3388	92%	3710	4422	84%	3852	4422	87%	3723	4174	89%	3699	4174	89%	4114	4174	99%
Elementary Total	**11155**	**12651**	**88%**	**11738**	**13993**	**84%**	**12189**	**13993**	**87%**	**12817**	**14370**	**89%**	**13653**	**15404**	**89%**	**15182**	**15404**	**99%**
E1 Total	1374	2339	59%	769	926	83%	780	926	84%	796	917	87%	802	917	87%	658	917	72%
E2 Total	910	1024	89%	1841	2216	83%	1868	2216	84%	1900	2187	87%	1913	2187	87%	2429	3387	72%
E3 Total	2185	2159	101%	1794	2159	83%	1820	2159	84%	1789	2060	87%	1802	2060	87%	1476	2060	72%
Middle Total	4469	5522	76%	4404	5301	83%	4468	5301	84%	4485	5164	87%	4517	5164	87%	4563	6364	72%
E1 Total	0	0		867	1242	70%	813	1242	65%	638	983	65%	634	983	65%	631	983	64%
E2 Total	3222	3658	88%	2551	3658	70%	2393	3658	65%	2363	3639	65%	2347	3639	65%	2337	3639	64%
E3 Total	1623	1946	83%	1357	1946	70%	1273	1946	65%	1263	1946	65%	1255	1946	65%	1250	1946	64%
High Total	4845	5604	86%	4775	6846	70%	4479	6846	65%	4264	6568	65%	4236	6568	65%	4218	6568	64%

* Lehigh Elementary located in East Zone Staging School for 20082009 school year while existing campus is remodeled.
** East Zone Staging School will become Elementary "I" in 20092010 school year when converted to permanent campus.

SOURCE: Table PSFE 10, Draft Public School Facilities Element, prepared by the Lee County School District, October 2008

Table 16-4 — Projections for WEST Zone, By School Type and By Sub-Zone

SCHOOL	2008/2009			2009/2010			2010/2011			2011/2012			2012/2013			2013/2014		
	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%
W1																		
J. Colin English Elementary	422	601	70%	531	601	88%	553	601	92%	561	584	96%	568	584	97%	599	584	103%
Littleton Elementary	628	738	85%	652	738	88%	680	738	92%	624	649	96%	631	649	97%	666	649	103%
North Ft Myers Acad. Elem.	548	876	63%	774	876	88%	807	876	92%	820	853	96%	830	853	97%	875	853	103%
Elementary Total	**1598**	**2215**	**72%**	**1958**	**2215**	**88%**	**2040**	**2215**	**92%**	**2005**	**2086**	**96%**	**2029**	**2086**	**97%**	**2141**	**2086**	**103%**
North Ft Myers Acad. Midd.	438	438	100%	412	438	94%	349	438	80%	340	426	80%	344	426	81%	347	426	82%
Middle Total	**438**	**438**	**100%**	**412**	**438**	**94%**	**349**	**438**	**80%**	**340**	**426**	**80%**	**344**	**426**	**81%**	**347**	**426**	**82%**
Island Coast High	1094	2004	55%	1881	2004	94%	1802	2004	90%	1772	2004	88%	1796	2004	90%	1790	2004	89%
High Total	**1094**	**2004**	**55%**	**1881**	**2004**	**94%**	**1802**	**2004**	**90%**	**1772**	**2004**	**88%**	**1796**	**2004**	**90%**	**1790**	**2004**	**89%**
W2																		
Caloosa Elementary	993	1075	92%	950	1075	88%	990	1075	92%	1015	1056	96%	1027	1056	97%	1084	1056	103%
Diplomat Elementary	944	1086	87%	960	1086	88%	1000	1086	92%	935	973	96%	946	973	97%	999	973	103%
Elementary "C"										994	1034	96%	1006	1034	97%	1061	1034	103%
Elementary "A"													1006	1034	97%	1061	1034	103%
Hancock Creek Elementary	874	1044	84%	923	1044	88%	961	1044	92%	976	1015	96%	987	1015	97%	1042	1015	103%
Hector A. Cafferata, Jr. Elementary	732	883	83%	780	883	88%	813	883	92%	750	780	96%	759	780	97%	800	780	103%
Tropic Isles Elementary	880	1051	84%	929	1051	88%	968	1051	92%	959	997	96%	970	997	97%	1023	997	103%
Elementary Total	**4423**	**5139**	**86%**	**4542**	**5139**	**88%**	**4732**	**5139**	**92%**	**5628**	**5855**	**96%**	**6700**	**6889**	**97%**	**7070**	**6889**	**103%**
Caloosa Middle	892	1005	89%	945	1005	94%	801	1005	80%	765	957	80%	772	957	81%	780	957	82%
Diplomat Middle	863	973	89%	914	973	94%	775	973	80%	773	967	80%	780	967	81%	788	967	82%
Mariner Middle	928	1141	81%	1072	1141	94%	909	1141	80%	903	1130	80%	911	1130	81%	921	1130	82%
Middle "MM"							950	1192	80%	953	1192	80%	962	1192	81%	972	1192	82%
Middle Total	**2683**	**3119**	**86%**	**2931**	**3119**	**94%**	**3435**	**4311**	**80%**	**3393**	**4246**	**80%**	**3425**	**4246**	**81%**	**3461**	**4246**	**82%**
Mariner High	1631	1635	100%	1535	1635	94%	1470	1635	90%	1445	1635	88%	1465	1635	90%	1460	1635	89%
North Fort Myers High	1748	1763	99%	1655	1763	94%	1585	1763	90%	1559	1763	88%	1580	1763	90%	1575	1763	89%
High Total	**3379**	**3398**	**99%**	**3190**	**3398**	**94%**	**3055**	**3398**	**90%**	**3004**	**3398**	**88%**	**3045**	**3398**	**90%**	**3035**	**3398**	**89%**

Table 16-4 — Projections for WEST Zone, By School Type and By Sub-Zone (continued)

SCHOOL	2008/2009			2009/2010			2010/2011			2011/2012			2012/2013			2013/2014		
	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%
W3																		
Cape Elementary	751	898	84%	794	898	88%	827	898	92%	839	873	96%	849	873	97%	896	873	103%
Gulf Elementary	1216	1347	90%	1190	1347	88%	1240	1347	92%	1244	1294	96%	1259	1294	97%	1328	1294	103%
Patriot Elementary	769	1046	74%	924	1046	88%	963	1046	92%	1005	1046	96%	1017	1046	97%	1073	1046	103%
Pelican Elementary	1088	1362	80%	1204	1362	88%	1254	1362	92%	1244	1294	96%	1259	1294	97%	1328	1294	103%
Skyline Elementary	1017	1380	74%	1220	1380	88%	1271	1380	92%	1211	1260	96%	1226	1260	97%	1293	1260	103%
Trafalgar Elementary	830	1036	80%	915	1036	88%	954	1036	92%	996	1036	96%	1008	1036	97%	1063	1036	103%
Elementary Total	**5671**	**7069**	**80%**	**6246**	**7069**	**88%**	**6509**	**7069**	**92%**	**6538**	**6803**	**96%**	**6617**	**6803**	**97%**	**6982**	**6803**	**103%**
Challenger Middle	1046	1230	85%	1156	1230	94%	980	1230	80%	953	1192	80%	962	1192	81%	972	1192	82%
Gulf Middle	874	943	93%	886	943	94%	751	943	80%	730	914	80%	737	914	81%	745	914	82%
Trafalgar Middle	956	1034	92%	972	1034	94%	824	1034	80%	818	1023	80%	825	1023	81%	834	1023	82%
Middle Total	**2876**	**3207**	**90%**	**3014**	**3207**	**94%**	**2556**	**3207**	**80%**	**2501**	**3129**	**80%**	**2524**	**3129**	**81%**	**2551**	**3129**	**82%**
Cape Coral High School	1964	1759	112%	1651	1759	94%	1582	1759	90%	1555	1759	88%	1577	1759	90%	1571	1759	89%
Ida Baker High School	1920	1940	99%	1821	1940	94%	1744	1940	90%	1715	1940	88%	1740	1940	90%	1733	1940	89%
High Total	**3884**	**3699**	**105%**	**3472**	**3699**	**94%**	**3326**	**3699**	**90%**	**3270**	**3699**	**88%**	**3316**	**3699**	**90%**	**3304**	**3699**	**89%**
W1 Total	1598	2215	72%	1958	2215	88%	2040	2215	92%	2005	2086	96%	2029	2086	97%	2141	2086	103%
W2 Total	4423	5139	86%	4542	5139	88%	4732	5139	92%	5628	5855	96%	6700	6889	97%	7070	6889	103%
W3 Total	5671	7069	80%	6246	7069	88%	6509	7069	92%	6538	6803	96%	6617	6803	97%	6982	6803	103%
Elementary Total	**11692**	**14423**	**81%**	**12746**	**14423**	**88%**	**13281**	**14423**	**92%**	**14171**	**14744**	**96%**	**15346**	**15778**	**97%**	**16193**	**15778**	**103%**
W1 Total	438	438	100%	412	438	94%	349	438	80%	340	426	80%	344	426	81%	347	426	82%
W2 Total	2683	3119	86%	2931	3119	94%	3435	4311	80%	3393	4246	80%	3425	4246	81%	3461	4246	82%
W3 Total	2876	3207	90%	3014	3207	94%	2556	3207	80%	2501	3129	80%	2524	3129	81%	2551	3129	82%
Middle Total	**5997**	**6764**	**89%**	**6357**	**6764**	**94%**	**6340**	**7956**	**80%**	**6234**	**7801**	**80%**	**6293**	**7801**	**81%**	**6359**	**7801**	**82%**
W1 Total	1094	2004	55%	1881	2004	94%	1802	2004	90%	1772	2004	88%	1796	2004	90%	1790	2004	89%
W2 Total	3379	3398	99%	3190	3398	94%	3055	3398	90%	3004	3398	88%	3045	3398	90%	3035	3398	89%
W3 Total	3884	3699	105%	3472	3699	94%	3326	3699	90%	3270	3699	88%	3316	3699	90%	3304	3699	89%
High Total	**8357**	**9101**	**92%**	**8543**	**9101**	**94%**	**8183**	**9101**	**90%**	**8046**	**9101**	**88%**	**8157**	**9101**	**90%**	**8129**	**9101**	**89%**

SOURCE: Table PSFE 11, Draft Public School Facilities Element, prepared by the Lee County School District, October 2008

Table 16-5 — Projections for Barrier Island and Special Centers

SCHOOL	2008/2009			2009/2010			2010/2011			2011/2012			2012/2013			2013/2014		
	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%	Enroll	Cap	Util%
Barrier Island Schools																		
Fort Myers Beach Elem	153	200	77%	170	200	85%	170	200	85%	161	179	90%	161	179	90%	161	179	90%
Pine Island Elementary	301	391	77%	332	391	85%	332	391	85%	329	347	95%	329	347	95%	329	347	95%
The Sanibel School (Elem)	244	263	93%	224	263	85%	223	263	85%	231	241	96%	231	241	96%	231	241	96%
The Sanibel School (Mid)	126	132	95%	112	132	85%	112	132	85%	115	122	94%	115	122	94%	115	122	94%
Total	**824**	**986**	**84%**	**838**	**986**	**85%**	**837**	**986**	**85%**	**836**	**889**	**94%**	**836**	**889**	**94%**	**836**	**889**	**94%**
Special Facilities																		
Buckingham Exceptional Ctr.	105	100	105%	110	100	110%	116	100	116%	122	100	122%	128	100	128%	134	100	134%
Dunbar Community School	0	260	0%	0	260	0%	0	260	0%	0	260	0%	0	260	0%	0	260	0%
New Directions	518	665	78%	544	665	82%	571	665	86%	599	640	94%	629	640	98%	661	640	103%
ALC West	76	265	29%	79	265	30%	83	265	31%	88	265	33%	92	265	35%	96	265	36%
Royal Palm Exceptional Center	181	230	79%	190	230	82%	199	230	87%	209	230	91%	220	230	95%	230	230	100%
High Tech Central	78	675	12%	82	675	12%	86	675	13%	90	675	13%	94	675	14%	99	675	15%
High Tech North	100	324	31%	105	324	32%	110	324	34%	115	324	36%	121	324	37%	127	324	39%
Total	**1058**	**2519**	**58%**	**1110**	**2519**	**61%**	**1165**	**2519**	**64%**	**1223**	**2494**	**68%**	**1284**	**2494**	**71%**	**1347**	**2494**	**75%**

SOURCE: Table PSFE 13, Draft Public School Facilities Element, prepared by the Lee County School District, October 2008

LEVEL-OF-SERVICE STANDARD

"Level of service" (LOS) is the relationship between demand and supply. For schools, LOS is expressed as a ratio of student enrollment to school capacity for all schools of each type (elementary, middle, high, and barrier islands/special centers).

To establish a formal level of service, the school district first identifies the *current* level of service that is being provided. Then the district projects future demand from additional students, identifies needed capacity in nearby schools, and determines the cost to construct additional school capacity. This cost is then compared to available funds for construction.

This process is similar to how the school district has always identified where new schools should be constructed. The difference now is that a public school "level of service" must become a regulatory standard in every county and city. Should the adopted standard not be met in any CSA, further development approvals cannot be granted.

To determine the capacity of each school, the school district uses a methodology established by the state Department of Education known as the Florida Inventory of Schoolhouses (FISH). This capacity is the number of students that may be housed in a school at any given time based on a state-determined percentage of the number of existing "student stations."

The number of regular classrooms is multiplied by the number of student stations to create the "Permanent FISH Capacity" for each school. ("Permanent" capacity excludes relocatable classrooms from the capacity of schools.) No capacity is assigned to small instructional spaces or to specialized classrooms such as science labs and art or music rooms.

Tables 16-2 through 16-5 list each school administered by the school district according to its student assignment zone (South, East, West, and Barrier Islands/Special Centers, respectively) and its sub-zone (e.g., S1, S2, S3, etc.). Data is provided showing each school's current enrollment and its permanent FISH capacity. Projections of future student demand are applied to each school for each year through 2011/12. New schools are shown as available in future years according to the school district's current construction schedule.

A "utilization percentage" (enrollment divided by capacity) is also provided in these tables for each school each year. This percentage can be thought of as a "level of service" for that school. Subtotals of enrollment, capacity, and utilization percentage are provided for each school type in each sub-zone and zone. This presentation of data makes it possible to evaluate taking the utilization percentage for various groupings of schools and making that percentage the formal "level of service" for concurrency purposes.

Based on this data, the school district has agreed with Lee County and the five municipalities[4] to jointly establish the following level-of-service standard for concurrency purposes:

(1) *Elementary: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.*
(2) *Middle: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.*
(3) *High: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.*
(4) *Special Purpose: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.*

[4] *Interlocal Agreement, approved April 7, 2008 (copy attached)*

For purposes of this subsection, a "measurable programmatic change" means a change to the operation of a school and measurable capacity impacts including, but not limited to, double sessions, floating teachers, year-round schools and special educational programs.

Relocatable classrooms shall be utilized to maintain the LOS on a temporary basis when construction to increase capacity is planned and in process. The temporary capacity provided by relocatables shall not exceed 20% of the Permanent FISH Capacity and shall be used for a period not to exceed three years. Relocatables may also be used to accommodate special education programs as required by law and to provide temporary classrooms while a portion of an existing school is under renovation.

This standard will be applied to each of the three student assignment zones, not to individual schools or to sub-zones. Policy 16-B-1 of this element contains the final wording for this standard. Policy 16-B-3 describes the process for modifying this standard.

PROJECTED ADDITIONS TO SCHOOL CAPACITY

Countywide, four additional elementary schools are proposed in this plan, adding about 4,000 additional elementary student stations. The replacement of Michigan Elementary School will add about 308 student stations.

To accommodate the growth at the middle school level, two new middle schools will open in the next 5 years, adding about 2,668 new middle school student stations. No new high schools are planned.

The school district currently owns enough land to build all schools planned to open through 2012, with a bank of properties for some of the schools planned to open after that date.

SCHOOL DISTRICT CAPITAL FUNDING

The school district relies on both local and state funding for new construction and renovation. The primary local funding is from property taxes and school impact fees.

The school district has levied the maximum allowable rate of 1.75 mills for capital costs in its most recent budget.

In 2005, Lee County adopted school impact fees. The current rate is approximately $4,116 for a single-family home and $1,624 for multifamily units. These fees offset a portion of the cost of additional student stations required by new residential development.

The school district may also sell bonds or offer certificates of participation. The district currently has $574,230,000 in outstanding certificates which were used to construct 24,879 student stations.

School expansion projects also rely on state capital outlay funding sources derived from motor vehicle license taxes, known as Capital Outlay and Debt Service funds (CO&DS), and gross receipts tax revenue from utilities, known as Public Education Capital Outlay funds (PECO). Table 16-6 summarizes funds available to the school district for capital improvements over the coming five years.

FINANCIAL FEASIBILITY

Florida law requires that this element of the comprehensive plan must address how the level-of-service standard will be achieved and maintained.

The school board is required by state law to adopt each year a financially feasible "Five-Year Capital Facilities Plan." That plan details the capital improvements that are needed and the revenues that are available to meet the demand for additional student stations.

The summary of capital improvements shown in Table 16-7 details the school district's planned expenditures over the current five-year planning period. The school district's capital improvements program does not require funding from Lee County or the individual cities.

A comparison of Tables 16-2 through 16-7 show that the school district's capital financing plan is sufficient to fund necessary capital improvements and is financially feasible.

Table 16-6— Estimated Revenues for Public School Capital Improvements

Revenue Source	FY 2008 – 2009 Budget	FY 2009-2010 Projected	FY 2010-2011 Projected	FY 2011-2012 Projected	FY 2012-2012 Projected	Five-Year Total
Local Ad Valorem Tax (Discretionary Capital Outlay Revenue)	147,296,040	141,630,808	136,183,469	133,513,205	140,188,865	698,812,387
PECO and 2-Mil Maintenance and Other 2-Mil Expenditures	(367,110,689)	(248,503,334)	(219,173,383)	(225,568,282)	(209,324,672)	(1,269,680,360)
PECO Maintenance Revenue	2,891,818	3,472,847	4,647,908	4,396,618	4,381,272	19,790,463
Available 2-Mil for New Construction:	**(219,814,649)**	**(106,872,526)**	**(82,989,914)**	**(92,055,077)**	**(69,135,807)**	**(570,867,973)**
CO & DS Revenue	1,011,549	1,011,549	1,011,549	1,011,549	1,011,549	5,057,745
PECO New Construction Revenue	6,081,424	0	1,370,343	4,189,361	1,674,646	13,315,774
Other Revenue for Other Capital projects	665,800	100,000	100,000	100,000	100,000	1,065,800
Impact fees received	5,000,000	3,000,000	4,000,000	4,000,000	7,000,000	23,000,000
Interest, Including Profit on Investment	9,981,000	6,490,192	5,195,531	4,879,795	5,250,135	31,796,653
Fund Balance Carried Forward	336,106,236	175,368,500	112,472,249	96,774,372	108,121,977	828,843,334
Total Additional Revenue:	**358,846,009**	**185,970,241**	**124,149,672**	**110,955,077**	**123,158,307**	**903,079,306**
Total Available Revenue:	**139,031,360**	**79,097,715**	**41,159,758**	**18,900,000**	**54,022,500**	**332,211,333**

SOURCES: Table PSFE 17, Draft Public School Facilities Element, prepared by the Lee County School District, October 2008
Five-Year District Facilities Work Program, 2008-2009, prepared by the Lee County School District, September 2008

Table 16-7— Schedule of Capacity-Enhancing Capital Improvements

			Expected cost, by fiscal year					
Project Description	**Name / Code**	**Added Capacity**	**2008 - 2009**	**2009 - 2010**	**2010 - 2011**	**2011 - 2012**	**2012 - 2013**	**Total**
New Elementary East Zone (K-5)	Elem. V	1,000	$23,477,713	$0	$0	$0	$0	$23,477,713
New Elementary West Zone (K-5)	Elem. A	1,000	$0	$8,145,000	$19,005,000	$0	$0	$27,150,000
New Elementary East Zone (K-5)	Elem. W	1,000	$0	$8,145,000	$19,005,000	$0	$0	$27,150,000
New Elementary South Zone (K-5)	TBD	1,000	$0	$0	$0	$0	$9,922,500	$9,922,500
New Elementary East Zone (K-5)	TBD	1,000	$0	$0	$0	$9,450,000	$22,050,000	$31,500,000
New Elementary West Zone (K-5)	Elem. C	1,000	$0	$0	$0	$9,450,000	$22,050,000	$31,500,000
Replacement Elementary South Zone (K-5)	Heights	0	$2,428,064	$0	$0	$0	$0	$2,428,064
Replacement Elementary South Zone (K-5)	Michigan	750	$23,066,661	$0	$0	$0	$0	$23,066,661
Oak Hammock Middle East Zone (6-8)	KK	1,334	$3,842,498	$0	$0	$0	$0	$3,842,498 $0
New Middle East Zone (6-8)	LL	1,334	$13,065,107	$26,159,893	$0	$0	$0	$39,225,000
New Middle West Zone (6-8)	MM	1,334	$300,000	$31,047,822	$3,149,758	$0	$0	$34,497,580
New ALC West Zone	ALC West	265	$1,001,497	$3,600,000	$0 $0	$0 $0	$0	$4,601,497 $0
Sub-totals:			**$67,181,540**	**$77,097,715**	**$41,159,758**	**$18,900,000**	**$54,022,500**	**$258,361,513 0**
Other Capital Improvements That Don't Add School Capacity:			**$74,849,820**	**$2,000,000**	**$0**	**$0**	**$0**	**$76,849,820**
Grand totals:			**$142,031,360**	**$79,097,715**	**$41,159,758**	**$18,900,000**	**$54,022,500**	**$335,211,333 $0**

~~** Design and construction may begin for these elementary schools, but completion and occupancy will not take place during this five-year period*~~

SOURCE: ~~*Table PSFE 16, Draft Public School Facilities Element, prepared by the Lee County School District, October 2008*~~

Capacity Project Schedules in Five-Year District Facilities Work Program, 2008-2009

PROPORTIONATE SHARE MITIGATION

If school capacity is not available to accommodate a new development, the school district may entertain mitigation offers from the developer to offset the impact by creating additional school capacity.

If a mitigation option is accepted, it will be memorialized in an enforceable agreement between the developer, the affected local government, and the school district. The contribution must be directed toward a school capacity project identified in the district's Five-Year Capital Facility Work Plan.

Capacity projects identified within the first three years of the Five-Year Capital Facility Work Plan shall be considered as committed projects. If capacity projects are planned in years four or five of the district's Five-Year Capital Facility Work Plan within the same CSA as the proposed residential development, the developer may pay a proportionate share of the identified capacity project to mitigate the proposed development and accelerate its schedule.

When the student impacts from a proposed development cause the adopted level of service to fail, a developer may enter into a 90-day negotiation period with the school district and the town to review potential mitigation proposals. To be acceptable, a proportionate share project must create a sufficient number of additional student stations to maintain the established level of service with the addition of the development project's demand. Mitigation options include but are not limited to:

(1) The funding of land acquisition or construction of a public school facility to offset the demand for public schools being created by the proposed development; or
(2) Establishment of a charter school with facilities constructed in accordance with the State Requirements for Educational Facilities (SREF) on a site that meets the minimum acreage provided in the guidelines for SREF and subject to guarantees that the facility will be conveyed to the school district at no cost if the charter school ceases to operate.

The following standards apply to any mitigation accepted by the school district:

(1) Proposed mitigation must be directed towards a permanent school capacity improvement identified in the school district's financially feasible work program, which satisfies the demands created by the proposed development; and
(2) Relocatable classrooms will not be accepted as mitigation.

The amount of the required mitigation shall be determined using the following formula:

(# of housing units by type) x (student generation rate by type of unit) x (student station cost adjusted to local costs) = proportionate share mitigation amount

The student generation rate is 0.299 for single-family detached homes and 0.118 for all multifamily dwelling units. The student station cost adjusted to local costs will be calculated utilizing the total cost per student station established by the Florida Department of Education, plus a share of the land acquisition and infrastructure expenditures as determined annually in the school district's Five-Year Capital Facilities Work Plan.

The costs associated with the identified mitigation shall be based on the estimated cost of the improvement on the date that the improvement is programmed for construction. Future costs will be calculated using estimated values at the time the mitigation is anticipated to commence. The cost of the mitigation required by the developer shall be credited toward the payment of impact fees imposed by local ordinance for the same need. If the cost of the mitigation option agreed to is greater than the school impact fees for the development, the difference between the developer's mitigation costs and the impact fee credit is the responsibility of

the developer. Any mitigation accepted by the school district and subsequently agreed to by the town shall result in a legally binding agreement between the school district, the town, and the developer.

SCHOOL PLANNING AND SHARED COSTS

By coordinating the planning of future schools with affected local governments, the school district can better identify the costs associated with site selection and the construction of new schools. Coordinated planning requires the school district to submit proposed school sites to the affected local government for review and approval. This process also permits the school district and local governments to jointly determine the need for and timing of on-site and off-site improvements necessary to support each new school.

Necessary infrastructure improvements may include potable water lines, sewer lines, drainage systems, roadways including turn lanes, traffic signalization, site lighting, bus stops, and sidewalks. These improvements are mandated at the time of site plan approval. Approval conditions can address the timing and responsibility for construction of required on-site and off-site improvements.

COORDINATION

State law requires the school district and local governments to consider co-locating public schools and public facilities. The co-location and shared-use of facilities provide important economic advantages to all parties and greater convenience to the public.

The school district and Lee County have recently shared the cost to construct two facilities on school campuses that serve the athletic facility needs of the school and serve as community recreation centers. During the preparation of its educational plant survey, the school district can identify future co-location and shared-used opportunities for new schools and public facilities.

Likewise, co-location and shared use opportunities should be considered by the town and other units of local government when updating their own comprehensive plans and when planning and designing libraries, parks, community centers, and auditoriums. Co-location and shared use of school and governmental facilities for health care and social services should also be considered.

PUBLIC SCHOOLS ELEMENT

GOALS - OBJECTIVES - POLICIES

Based on the analysis of public school issues in this element, the following goals, objectives, and policies are adopted into the Fort Myers Beach Comprehensive Plan:

GOAL 16: To provide a public school system with a high-quality educational environment that is accessible for all of its students and has enough capacity to accommodate enrollment demand.

OBJECTIVE 16-A INTERGOVERNMENTAL COORDINATION – Maintain an interlocal agreement with the Lee County School District that coordinates the location of public schools with supporting infrastructure and other public facilities and with this comprehensive plan.

POLICY 16-A-1 To ensure compatibility with surrounding land uses and proximity to residential areas they serve, public and private schools should ~~may~~ be located in the following categories on the town's future land use map: Mixed Residential, Boulevard, Pedestrian Commercial, or Recreation (but never seaward of the 1978 coastal construction control line), as required by Policy 4-B-14. Schools located outside the town must be located in accordance with policies of the relevant local government.

POLICY 16-A-2 The town and the school district shall jointly determine the need for and timing of on-site and off-site improvements necessary to ensure safe access to public schools and shall enter into an agreement with the school district identifying the timing, location, and the party or parties responsible for constructing, operating, and maintaining off-site improvements necessary to support public schools. Examples of off-site improvements include sidewalks and bicycle paths.

POLICY 16-A-3 The town strongly encourages the school district to add middle-school classrooms to the Fort Myers Beach Elementary School.

POLICY 16-A-4 Governmental agencies providing parks, libraries and community centers are strongly encouraged to locate them near ~~schools~~ the Fort Myers Beach Elementary School, which has always served as a community focal point.

POLICY 16-A-5 The town will coordinate with nearby local governments and the school district on emergency preparedness issues.

POLICY 16-A-6 The town will coordinate an annual review of this element and of school enrollment and population projections with the school district, county, and other cities as set forth in the interlocal agreement with the Lee County School District.

OBJECTIVE 16-B ACCOMMODATING ENROLLMENT DEMAND – The town will keep in force the level-of-service standard (LOS) for public schools that is contained in the most current interlocal agreement with the school district in order to correct existing deficiencies and meet future needs.

POLICY 16-B-1 The minimum acceptable level-of-service standards for public schools within the Town of Fort Myers Beach shall be:

i. Elementary Schools: 100% of permanent capacity as adjusted by the school district annually to account for measurable programmatic changes.
ii. Middle Schools: 100% of permanent capacity as adjusted by the school district annually to account for measurable programmatic changes.
iii. High Schools: 100% of permanent capacity as adjusted by the school district annually to account for measurable programmatic changes.
iv. Special Purpose Schools: 100% of permanent capacity as adjusted by the school district annually to account for measurable programmatic changes.

"Permanent capacity" of each of the four types of schools means the combined capacity for all schools of that ~~each~~ type that are located in the school district's South Student Assignment Zone, as depicted in Figure 3 of this element. (Multi-zone magnet schools and special centers are excluded.) Permanent capacity is the capacity of permanent buildings as determined by the Florida Inventory of School Houses, 2006 edition, published by the Florida Department of Education's Office of Educational Facilities. "Measurable programmatic change" means a change to the operation of a school and measurable capacity impacts including, but not limited to, double sessions, floating teachers, year-round schools, and special educational programs.

POLICY 16-B-2 Relocatable classrooms may be utilized to maintain the level of service on a temporary basis when construction to increase capacity is planned and in process. The temporary capacity provided by relocatables shall not exceed 20% of the permanent capacity and shall be used for a period not to exceed three years. Relocatables may also be used to accommodate special education programs as required by law and to provide temporary classrooms while a portion of an existing school is under renovation.

POLICY 16-B-3 Modifications to these level-of-service standards and concurrency service areas shall be accomplished by amendment to the Interlocal Agreement approved on April 7, 2008, and subsequent amendments to policies in this comprehensive plan. Modified levels of service and concurrency service areas must maximize the utilization of school capacity to the greatest extent possible and must be financially feasible, supported by adequate data and analysis, and able to be achieved and maintained for the coming five years.

OBJECTIVE 16-C PUBLIC SCHOOL CONCURRENCY – Within six months after the effective date of this element, the town shall amend the concurrency management system in its land development code to include public school concurrency in the annual concurrency assessment in order to ensure adequate school capacity for at least the coming five years. Public school concurrency shall be applied by the town immediately as of the effective date of this element.

POLICY 16-C-1 The following residential uses are exempt from the requirements of school concurrency:

i. Single family lots having received final plat approval prior to the effective date of the code amendments.
ii. Multi-family residential development having received development order approval prior to the effective date of the code amendments.
iii. Amendments to residential development orders issued prior to the effective date of the code amendments, which do not increase the number of residential units or change the type of residential units proposed.
~~iv. Other uses as provided for in the code amendments.~~

POLICY 16-C-2 The town's concurrency provisions for public schools shall apply to residential development only, except as exempted in Policy 16-C-1.

i. If school capacity is available or planned to be under construction within the next three years, the application can proceed through the regular process.
ii. If school capacity is not available in the South Student Assignment Zone, a contiguous zone can be reviewed for available capacity.
    a. If school capacity in a contiguous zone is available or is planned to be under construction within the next three years, the application can proceed through the regular process.
    b. If capacity is not available, the applicant may begin a 90-day negotiation period for mitigation.

POLICY 16-C-3 The town and the school district shall review mitigation options during the 90-day negotiation period.

i. Mitigation options may include but are not limited to:
    a. The donation of land or of funding of land acquisition or construction of a public school facility sufficient to offset the demand for public school facilities to be created by the proposed development; or
    b. Establishment of a charter school with facilities constructed in accordance with the State Requirements for Educational Facilities (SREF) on a site that meets the minimum acreage provided in SREF and subject to guarantees that the facility will be conveyed to the school district at no cost to the district if the charter school ceases to operate.

ii. The school district will consider mitigation offers only if they meet the following standards:
    a. Proposed mitigation must be directed towards a permanent school capacity improvement identified in the school district's financially feasible work program which satisfies the demands created by the proposed development.
    b. Relocatable classrooms will not be accepted as mitigation.
iii. If mitigation can be agreed upon, the town and the school district will enter into an enforceable binding agreement with the developer.
iv. If capacity is not available and mitigation cannot be agreed upon, the town cannot approve the application until such time as capacity becomes available.
v. Further details on mitigation requirements is provided in the Interlocal Agreement with the school district.

OBJECTIVE 16-D SCHEDULE OF CAPITAL IMPROVEMENTS – The town's five-year schedule of capital improvements will include school projects that are needed to address existing deficiencies or meet future needs.

POLICY 16-D-1 During the annual update of the capital improvements element, the town shall incorporate into its five-year schedule of capital improvement any improvements proposed by the school district during the next five years that will be constructed within the town's municipal limits and which are needed to address capacity deficiencies and shall ensure the financial feasibility of the school district's facility work plans on which this element is based. Capacity-enhancing school improvements outside the Town of Fort Myers Beach will be incorporated into the five-year schedule of capital improvements in accordance with Policy 11-A-7. The annual update process will comply with all relevant statutory and administrative code requirements.

REFERENCES

- **Five-Year District Facilities Work Program, 2008-2009**, Lee County School District, September 2008, *www.planning.leeschools.net/Data/08WkPlanFinal.pdf*

- **Educational Plant Survey**, September 2006, *http://planning.leeschools.net/Data/Lee%20Co%202007-12%20Ed%20Plant%20Survey.pdf*

- **Draft Public School Facilities Element**, prepared by Lee County School District, revised October 2008

- **Adopted Lee County Public Education Facilities Amendment**, DCA Number 09-1, approved by Lee County Ordinance 08-21 on September 11, 2008. The entire amendment file can be accessed through the following links:
  http://dcapapers.eoconline.org/FloridaPAPERS/FlashAug16/Model/documentView.cfm?UserID=6239&AreaID=11&DocumentID=435854

- **Interlocal Agreement**, Lee County School District and Town of Fort Myers Beach, approved by School District on 03-25-08 and by Fort Myers Beach on 04-07-08 (copy attached)

PUBLIC SCHOOLS ELEMENT

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Application #: 2008-03-TEXT

Description: Revise Policy 4-D-1 and revise or repeal Policy 5-C-7 regarding "repetitive loss" properties under the National Flood Insurance Program

Pages to be changed: Comprehensive Plan Pages 4-12, 4-51, 5-14, and 5-28 (proposed changes are attached)

Discussion in E/A Report (adopted on Jan 16 '07): *From Pages 10-11:* "EVALUATION OF POLICY 5-C-7: This policy was an attempt to speed up the replacement of buildings that were particularly subject to flooding. A single flood loss of $1,000 or more since 1978 would force a building to be replaced when the next flood damage occurred, regardless of how minor the damage. This is in contrast to the standard rule that a building need not be replaced unless flood damage exceeded 50% of the building's value. (Language similar to Policy 5-C-7 is also contained in Policy 4-D-1-i.)

"This strict policy is encouraged by the Federal Emergency Management Agency and is rewarded by credits that can reduce flood insurance premiums for all other property owners in the same community. However, the cost to an affected building owner is extremely high, often requiring the demolition of their homes. Figure 6 of the Coastal Management Element mapped the structures that would be affected as of 1993; that map does not include later flood damage from Tropical Storm Gabrielle in 2001 or Hurricane Charley in 2004.

"The town council considered implementing this policy when adopting the new land development code but decided that the extreme costs to individuals outweighed the small potential benefits to all. The corresponding code language was repealed from the code in 2004. A somewhat less restrictive repetitive loss provision was put into the code in its place, requiring that structures damaged repeatedly by flooding during any ten-year period would have to be replaced if flood damage from two or more flood events averaged more than 25% of the building's value.

"Policy 5-C-7 (and the similar language in Policy 4-D-1) no longer reflect the current policy of the town. This language should be eliminated from the comprehensive plan."

From Page 71: "This element [coastal management] also noted a Lee County program begun in 1995 to identify individual buildings that have been repeatedly damaged by flooding based on flood insurance claims of at least $1,000. County officials wanted to require that if these buildings were damaged again by more than 20% of their value, they would have to be brought into compliance with current standards for new construction (primarily by elevating the building). This "repetitive loss" program is conceptually

admirable but was extremely punitive as originally proposed. County officials have backed away from this approach altogether. Town officials placed this policy into the comprehensive plan effective in 1999:

> *POLICY 5-C-7: Continue to inventory buildings that are repeatedly damaged by flood waters to identify those that have recorded one or more National Flood Insurance Program (NFIP) flood losses of $1,000 or more since 1978. Require that such buildings be brought into compliance with current regulatory standards for new construction if they are damaged again by flooding.*

"When implementing this "repetitive loss" policy through Chapter 6 of the land development code, town officials made it less punitive than the original concept. Policy 5-C-7 should be revised or repealed, as should similar language in Policy 4-D-1-i, as the current language no longer states the town's official policy on this matter."

Action by LPA: During a public hearing on May 20, 2008, the LPA recommended that the Town Council approve these changes as proposed in this report:

- Changes to Page 4-12 of the narrative in the Future Land Use Element
- Changes to Policies 4-D-1 of the Future Land Use Element
- Changes to Page 5-14 of the narrative in the Coastal Management Element
- Changes to Policies 5-C-7 of the Coastal Management Element

~~The minutes of the public hearing are attached.~~

Action by Town Council: During a public hearing on November 17, 2008, the Town Council voted unanimously to transmit this amendment for state review.

DCA Objection: None

DCA Recommendation: None

Response to DCA: N/A

Proposed Final Action: The Town Council should adopt the transmitted amendment, as described above, as part of Ordinance 09-03.

Final Action: The Town Council adopted this amendment on August 17, 2009, as part of Ordinance 09-03.
(Text shown in red is new or has changed since the initial transmittal of this amendment in January 2009.)

determine if they might jeopardize the community's continued participation in the NFIP.

Lee County began participating in the NFIP in 1984 immediately after all of its coastal areas were mapped. Fort Myers Beach was covered under the county's program until the end of 1996, at which time it began the process of joining the program on its own. The previous Lee County regulations are currently in effect in Section 6-401 through 475 of the Fort Myers Beach Land Development Code; the town now has the responsibility for modifying and updating them.

As to residential buildings, these rules have become a fact of life in all coastal communities. They cause a hardship to many elderly people who have difficulty climbing the required entrance stairs in homes; they often create a strange pattern in neighborhoods with old and new houses; and they reduce the desirable connection between indoor living space and Florida's pleasant outdoors. However, these factors are generally outweighed by the desirability of keeping new homes out of harm's way during recurring floods. There is little prospect or reason for changing this development pattern as it applies to *new homes*.

Properties Repeatedly Damaged By Flooding

A number of structures within the town have experienced damage as a result of past floods. Lee County ~~began a program in 1995~~ considered a program to identify individual buildings that have been repeatedly damaged by flooding, as evidenced by claims under the National Flood Insurance Program (NFIP) of $1,000 or more since 1978. If damaged again by more than 20% of their value, these buildings would have to be brought into compliance with current standards for new construction before other major improvements were made to the building. However, those regulations weren't adopted because the extreme costs to a few homeowners did not justify the potential benefits.

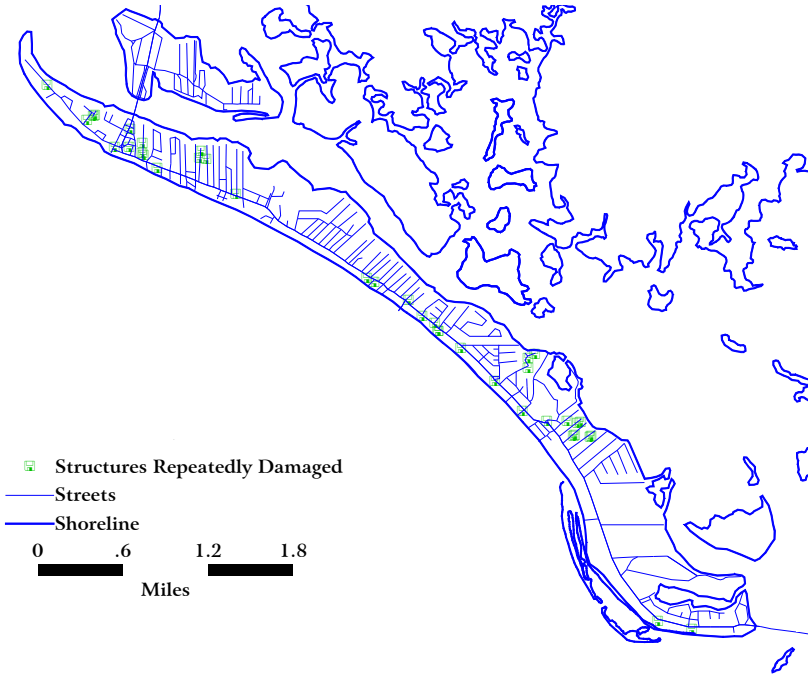


Figure 4*, Repeated Flood Damage*

That program identified the properties in Figure 4 (as described in more detail in the Coastal Management Element of this plan). No meaningful pattern appears on the map that would suggest neighborhood-wide flooding remedies. Of particular interest, however, is that none of the floods that caused considerable damage at Fort Myers Beach in the past 15 years were even minimal hurricanes; in fact two weren't even strong enough to be considered tropical storms.

Lee County is conducting a detailed assessment of the costs of improving the buildings in the unincorporated area that have been repeatedly damaged by flooding. The county hopes to obtain 75% federal funding for many of the actual improvements. If the county is successful, the town may be able to qualify for a similar grant.

on Palermo Circle. These options would be explored by a privately-funded but town-initiated planning process, with full involvement of affected and nearby landowners.

POLICY 4-C-12 **WETLAND BUFFERS:** Upland development shall maintain a 75-foot separation between wetlands and buildings or other impervious surfaces. This requirement shall not apply to platted lots, or to a previously approved development order to the extent it cannot reasonably be modified to comply with this requirement (see Chapter 15 of this plan for details).

OBJECTIVE 4-D POST-DISASTER REDEVELOPMENT — Provide for the organized and healthy reconstruction of Fort Myers Beach after a major storm by showcasing successful local examples of flood-proofing, by requiring redevelopment activities to meet stricter standards for flood- and wind-resistance, and by improving the current post-disaster buildback policy.

POLICY 4-D-1 **POST-DISASTER BUILDBACK POLICY**: Following a natural disaster, land may be redeveloped in accordance with the Future Land Use Map or, at the landowner's option, in accordance with the following "buildback policy" begun by Lee County in 1989. This policy applies only where development is damaged by fire, hurricane or other natural disaster, and allows the following options:

i. Buildings/development damaged *less than 50%* of their replacement cost (measured at the time of damage) can be rebuilt to their original condition, subject only to current building and life safety codes~~; however, this threshold is reduced to 20% for buildings previously damaged by flooding of $1,000 or more under the National Flood Insurance Program~~.

ii. Buildings/development damaged *more than 50%* of their replacement cost can be rebuilt to their legally documented actual use, density, intensity, size, and style provided the new construction complies with:
   a. federal requirements for elevation above the l00-year flood level;
   b. any building code requirements for floodproofing;
   c. current building and life safety codes;
   d. Coastal Construction Control Line requirements; and
   e. any required zoning or other development regulations (other than density or intensity), except where compliance with such regulations would preclude reconstruction otherwise intended by this policy.

iii. Redevelopment of damaged property is not allowed for a more intense use or at a density higher than the original lawful density except where such higher density is permitted under this plan and the town's land development regulations.

To further implement this policy, the town may establish blanket reductions in non-vital development regulations (e.g. buff-

Structures with Repeated Damage Due to Storms

A number of structures within the town have experienced damage as a result of past floods. Lee County began a program in 1995 to identify individual buildings that have been repeatedly damaged by flooding, as evidenced by claims under the National Flood Insurance Program (NFIP) of $1,000 or more since 1978. ~~If damaged again by more than 20% of their value, these buildings must be brought into compliance with current standards for new construction (primarily by elevating the building).~~

That program identified the properties in Table 5-6, which are mapped in Figure 6. No meaningful pattern appears on the map that would suggest neighborhood-wide flooding remedies. Of particular interest on Table 5-6, however, is that *none* of the floods that caused considerable damage at Fort Myers Beach in the past 15 years were even minimal hurricanes; in fact two weren't even strong enough to be considered tropical storms.

Lee County is conducting a detailed assessment of the costs of improving the buildings in the unincorporated area that have been repeatedly damaged by flooding. The county hopes to obtain 75% federal funding for many of the actual improvements. If the county is successful, the town may be able to qualify for a similar grant.

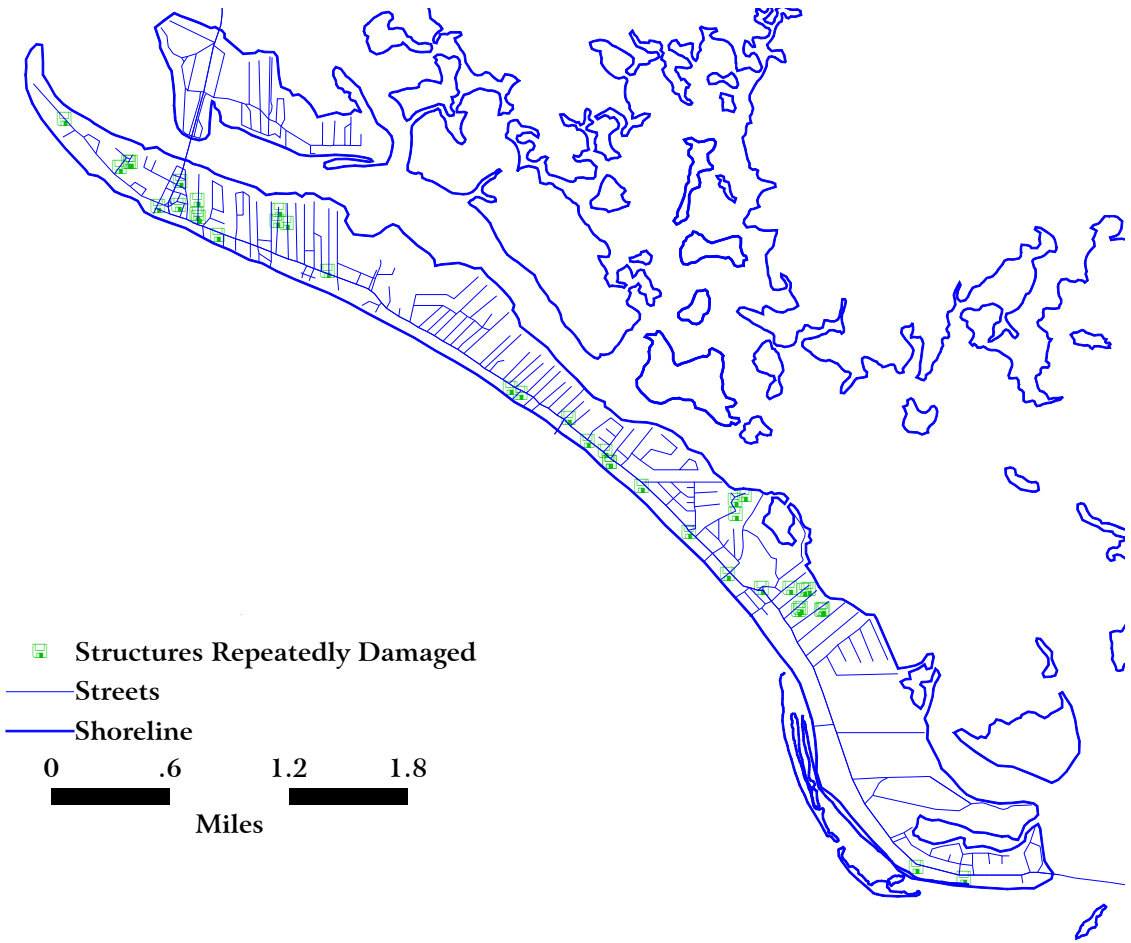


***Figure 6**, Repeated Flood Damage*

iii. Roads should be designed to manage minimum levels of flooding and be located where least susceptible to storm damage.

POLICY 5-C-7 Continue to inventory buildings that are repeatedly damaged by flood waters to identify those that have recorded one or more National Flood Insurance Program (NFIP) flood losses of $1,000 or more since 1978. ~~Require that such buildings be brought into compliance with current regulatory standards for new construction if they are damaged again by flooding.~~

OBJECTIVE 5-D BEACHES AND DUNES — Conserve and enhance the shoreline of Estero Island by increasing the amount of dunes, renourishing beaches to counter natural erosion, and reducing negative man-made impacts on beaches and dunes.

POLICY 5-D-1 The town's policies on shoreline protection measures shall be as follows (see also Objective 5 and related policies in the Conservation Element of this plan):

i. Beach renourishment will be necessary along much of the Gulf beach. The long-term recreational and economic benefits will offset the cost. The town shall work closely with Lee County, which has agreed to take the lead role in carrying out this important activity. All practical measures shall be taken to ensure that beach renourishment improves sea turtle nesting habitat rather than interfering with it. Public access to existing and renourished beaches is an important priority of the town of Fort Myers Beach.

ii. Sand dunes should be protected and re-created wherever they have been removed. Native dune plants should be protected and non-native exotics removed. Dune walkovers should be constructed where they do not exist and existing structures should be maintained.

iii. The use of vehicles on any part of the beach should be severely limited in accordance with Conservation Policy 6-E-4(iv).

iv. Buildings and other structures should be located as far away from the shoreline and dune system as possible since the beach is a constantly changing environment. Beachfront development shall be protected from coastal erosion, wave action, and storms by vegetation, setbacks, and/or beach renourishment rather than by seawalls or other hardened structures which tend to hasten beach erosion, interfere with public access, and block sea turtle nesting.

v. Development (other than minor structures) shall not be allowed seaward of the 1978 Coastal Construction Control Line. Development seaward of the 1991 Coastal Construction Control Line may be permitted provided it complies with this comprehensive plan and all state and local permitting requirements.

vi. Where buildings are threatened by erosion that cannot be reversed by major beach renourishment, the town's priorities are (1) to allow the structure to be

Application #: 2008-04-TEXT

Description: Clarify Policy 4-E-1 to maintain the original intention of pre-disaster buildback and to provide additional incentives

[This amendment could either refer more explicitly to its intention to provide the same rights as for post-disaster buildback, or it could simply state that the physical size or interior square footage of a building may not be increased during the pre-disaster buildback process. It would also clarify that large condominium buildings cannot be substituted for existing hotels and motels in the guise of buildback; they could still replace older hotels or motels, but the new structures would have to meet today's more restrictive density cap. At the same time, the town could consider additional incentives for pre-disaster buildback beyond those already in the comprehensive plan]

Pages to be changed: Comprehensive Plan Pages 4-18–4-18a and 4-52 (proposed changes are attached)

Discussion in E/A Report (adopted on Jan 16 '07): *From Pages 11– 14:*

"One of the important innovations of the comprehensive plan was the "pre-disaster buildback policy." Before 1999, owners of over-density buildings were allowed to rebuild their existing square-footage only if their buildings were destroyed by a natural disaster. A goal of the new plan was to allow the upgrading or replacement of these "grandfathered" structures without awaiting their destruction by natural causes (see Objective 4-E). Policy 4-E-1 was also added to the plan in 1999 to begin carrying out this goal:

> "POLICY 4-E-1: PRE-DISASTER BUILDBACK POLICY: Owners of existing developments that exceed the current density or height limits may also be permitted to replace it at up to the existing lawful density and intensity prior to a natural disaster. Landowners may request this option through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such a request based on the conformance of the specific proposal with this comprehensive plan, including its land use and design policies, pedestrian orientation, and natural resource criteria.

"Policy 4-E-1 does not define the word "intensity" in this policy nor does it go into detail about intensity as did the older "post-disaster buildback policy," which said that grandfathered buildings "...can be rebuilt to their legally documented actual use, density, intensity, size, and style...." During the past two years there has been extensive public discussion as to whether Policy 4-E-1 necessarily limits the reconstruction of over-density buildings to their current physical size.

"Perhaps the most authoritative reference in the planning field defines "intensity of use" as follows: "The number of dwelling units per acre for residential development and floor area ratio (FAR) for nonresidential development, such as commercial, office, and industrial." This definition is followed by this comment: "FAR

may also be used for residential development or for mixed-use development. In residential projects, FAR may be useful in relating the size of the building to the lot area." In the buildback context, the lot area doesn't change, so this definition would measure intensity by the physical size of the building for nonresidential development and sometimes would also measure intensity the same way same for residential or mixed-use development.

"The town can of course use definitions of its own choosing. The Land Development Code now interprets the pre-disaster buildback policy in a manner similar to this reference book and in the same manner as the post-disaster buildback policy by not allowing over-density buildings to be further enlarged during the pre-disaster buildback process. The actual land development code language for the square footage for pre-disaster buildback is identical as for post-disaster buildback.

"The current evaluation of the Fort Myers Beach Comprehensive Plan allows the town a chance to reconsider its pre-disaster buildback policy. The current interpretations of the policy have been challenged as being unduly restrictive because of the "no enlargement" rule. If over-density buildings were allowed to be enlarged during the buildback process, it would be a considerable incentive for property owners to demolish existing buildings to take advantage of this size increase. The new buildings would meet most current codes even if the existing buildings did not. In some cases, the new buildings would be designed for and marketed to seasonal residents instead of year-round residents or tourists, which might even decrease impacts on public services such as roads/water/sewer and private services such as restaurants.

"Most public discussion on this subject has centered around the vagueness of the term "intensity" in Policy 4-E-1. Property owners have argued that their over-density buildings should be allowed to be demolished and enlarged, sometimes several times over, provided there are some measures of intensity which would be held constant or reduced.

"However, the policy issues are much broader than what the drafters of Policy 4-E-1 meant by the term "intensity." For instance:

" ■ GEOGRAPHICAL EFFECTS: Discussions of intensity have centered mostly on water and sewer impacts and on road impacts. Although water and sewer impacts would be the same regardless of where a building is located, road impacts could differ greatly. For instance, a hotel that is isolated from commercial and recreational services would generate many more vehicular trips than the identical hotel within walking distance of those same services. In addition, some types of commercial development primarily serve those who are already on the island, actually reducing travel demand by eliminating some off-island vehicular trips.

" ■ SEASONAL EFFECTS: Traffic congestion is extreme throughout the winter (and also during holidays, weekends, and special events). Replacing motels with housing for seasonal residents may reduce total yearly vehicular trips, but seasonal residents tend to use their dwelling during the periods of greatest congestion; their absence during non-peak periods does not aid in reducing actual congestion.

" ■ ECONOMIC EFFECTS: The economy of Fort Myers Beach is based on tourism. Although tourism is sometimes overwhelming to permanent residents, tourism also provides benefits to residents, including

investment opportunities, employment, recreational opportunities, and choices for dining and entertainment that are far beyond what would be available if they were serving the resident population alone. Many residents have chosen to make Fort Myers Beach their home for these very reasons. Eliminating hotels, motels, and condominiums or timeshares that are available for short stays could have effects on the local economy far greater than reductions in intensity as measured by, say, water or sewer consumption.

"These policies issues don't suggest that the town needs to change course on pre-disaster buildback. In fact, the original reason for the present course was to give property owners for the first time the same rights to rebuild at leisure that they would have had only after a natural disaster. Granting greater rights to rebuild had never been considered for either pre-disaster or post-disaster buildback, for the simple reason that owners of over-density buildings already had greater rights than all other property owners at Fort Myers Beach. Past over-building caused today's current strong development restrictions, which fall most heavily on owners of vacant or lightly-developed properties such as single-family homes. If Fort Myers Beach were able to accommodate additional development, it would hardly be fair for property owners who are burdened by today's restrictions to continue under those restrictions while other owners who already have over-density buildings are granted additional rights.

"Members of the public who attended the April 7, 2005, workshop were requested to give their opinion on how the town should treat the rebuilding of "over-density" buildings. Five choices were set forth with a request to select one choice. This was not a scientific survey or poll but does give some idea of community sentiment on this and other difficult questions. The written responses that evening were as follows:

Density Limitations for Buildback of Older Building: Should the Town...

19 Encourage rebuilding of over-density buildings (older buildings that exceed today's density limits) by allowing their replacements to be larger than the existing buildings?
30 Allow rebuilding of over-density buildings but do not allow them to become larger?
12 Discourage rebuilding of over-density buildings by requiring density and/or size to be reduced?
11 Forbid rebuilding of over-density buildings; all new buildings would have to meet the town's current density rules?
1 [no answer provided]

"In order to maintain the original intention of pre-disaster buildback, Policy 4-E-1 should be amended for clarity. This amendment could either refer more explicitly to its intention to provide the same rights as for post-disaster buildback, or it could simply state that the physical size or interior square footage of a building may not be increased during the pre-disaster buildback process.

"If the town wishes to provide incentives for pre-disaster buildback beyond those already established in the comprehensive plan, the following concepts could be explored:

"Additional Incentive #1: In areas designated "Pedestrian Commercial" on the future land use map, dry-floodproofed commercial space below elevated buildings could be considered a bonus that would be permitted in addition to replacing the previous building's interior square footage.

"Additional Incentive #2: Instead of limiting pre-disaster buildback to the existing interior square footage, additional square footage could be permitted by the Town Council under certain conditions. For instance, up to a 5% increase over the existing square footage might be approved for each of the following:

- Rebuilding proposals that will operate as a hotel, motel, or resort.
- Replacement of hotel or motel rooms that are less than 400 square feet each.
- Rebuilding proposals that provide a fixed percentage of the project as public open space.
- Rebuilding proposals of exceptional architectural merit.
- Rebuilding proposals for commercial buildings that would dedicate the extra square footage to employee housing.
- Replacement of existing buildings of any type whose total size is less than one-half the floor-to-area ratio that would be allowed for a new building on that site.

Action by LPA: During a public hearing on May 20, 2008, the LPA on a 5–2 vote recommended that the Town Council approve these changes as proposed in this report:

- Changes to Page 4-18 (and 4-18a) of the narrative in the Future Land Use Element, but not including "Additional Incentive #2" on Page 4-18a
- Changes to Policies 4-E-1 of the Future Land Use Element, but not including subsection ii

The LPA's recommended changes to the original proposal are indicated by ~~struck-through~~ text on the following pages. Joanne Shamp and Bill Van Duzer dissented from the motion. ~~The minutes of the public hearing are attached.~~

Action by Town Council: During a public hearing on November 17, 2008, the Town Council voted 3 to 2 to transmit a revised version of this amendment for state review, as shown on the following pages.

DCA Objection: None

DCA Recommendation: None

Response to DCA: N/A

Proposed Final Action: The Town Council should adopt the transmitted amendment, as described above, as part of Ordinance 09-03.

Final Action: The Town Council adopted this amendment on August 17, 2009, as part of Ordinance 09-03.
(Text shown in red is new or has changed since the initial transmittal of this amendment in January 2009.)

POST-DISASTER REDEVELOPMENT POLICIES

When a passing hurricane destroys part of a community, difficult rebuilding questions arise immediately. Landowners have spent thousands and sometimes millions of dollars in developing their property. Not allowing landowners to rebuild would place a great economic burden upon them. But allowing redevelopment in the same manner might expose it to destruction in the next big storm.

Current Build-Back Policy

The current comprehensive plan contains a "build-back" provision initiated by Lee County in 1989 that allows post-disaster reconstruction at existing density levels, but requires improved resistance to future storms. This provision has been popular among landowners at Fort Myers Beach because of the greatly reduced density levels that would otherwise apply after a major storm. However, it falls far short of a redevelopment plan that would ensure that the community would be improved in other ways during the inevitable rebuilding process.

If a disaster strikes, structures that comply with all current regulations could of course be rebuilt in exactly the same form. However, many buildings at Fort Myers Beach do not comply with current regulations, particularly the maximum density level of six dwelling units per acre. When one of these structures is damaged greater than 50% of its current value, the build-back policy allows it to be rebuilt, but instead of meeting *all* current regulations, the new building can include the original number of dwellings and square footage. But it must meet all current flood, structural, and coastal setback requirements. The lowest floor level must be elevated; land uses are severely limited on the ground level; and break-away walls may be required. (Height and setback requirements might even be waived if needed for the building to comply with the new flood and structural requirements.)

One problem with the build-back policy is its limitation to post-disaster situations (such as floods, wind damage, or fire). Federal and state policy has been shifting in recent years to pre-storm mitigation of known hazards, instead of waiting for disasters to occur (as discussed in the previous section). The current policy is as inflexible in this regard as the National Flood Insurance Program.

Other possibilities for improving the build-back program in the future include:

- Mandating improved building form during the rebuilding process (some examples might be maintaining view corridors to the Gulf of Mexico, or allowing some mixed uses in residential-only towers, or placing buildings nearer the street).
- Allowing density transfers during the rebuilding process if they meet some stated public purpose.
- Creating a registry of pertinent building details (such as exact heights and exact building footprint on the ground) so that permitting would be eased in a post-disaster situation;

Modified Build-Back Policy

This plan makes one immediate change in the build-back policy. Owners of existing buildings that exceed the current density or height limits would no longer be categorically forbidden from rebuilding; they will be offered an opportunity to replace the building for the same use at up to the existing density and intensity (up to the original square footage, as already provided for post-disaster build-back) without waiting for a natural disaster (see Policy 4-E-1). Owners would request this option through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The Town of Fort Myers Beach would approve, modify, or deny this request based on the conformance of the specific proposal with this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria.

The town could also provide additional incentives for "pre-disaster" build-back. For instance in areas designated "Pedestrian Commercial" on the future land use map, dry-floodproofed commercial space below elevated buildings could be considered a bonus that would be permitted in addition to replacing the previous building's interior square footage. Policy 4-E-1 was modified in early 2009 to allow this additional incentive.

ering, open space, side setbacks, etc.) to minimize the need for individual variances or compliance determinations prior to reconstruction. The Land Development Code may also establish procedures to document actual uses, densities, and intensities, and compliance with regulations in effect at the time of construction, through such means as photographs, diagrams, plans, affidavits, permits, appraisals, tax records, etc.

OBJECTIVE 4 -E **HAZARD MITIGATION — Mitigate the potential effects of hurricanes by easing regulations that impede the strengthening of existing buildings, by encouraging the relocation of vulnerable structures and facilities, and by allowing the upgrading or replacement of grandfathered structures without first awaiting their destruction in a storm.**

POLICY 4-E-1 **PRE-DISASTER BUILDBACK POLICY:** Owners of existing developments that exceed the current density or height limits may also be permitted to replace it <u>for the same use</u> at up to the existing lawful density and intensity <u>(up to the original square footage)</u> *prior to* a natural disaster. Landowners may request this option through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such a request based on the conformance of the specific proposal with this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. <u>The Town Council may approve additional enclosed square-footage only if an existing building is being elevated on property that allows commercial uses; dry-floodproofed commercial space at ground level could be permitted in addition to the replacement of the pre-existing enclosed square footage.</u>

POLICY 4-E-2 **COASTAL SETBACKS:** To protect against future storm damage and to maintain healthy beaches, the Town of Fort Myers Beach wishes to see all buildings relocated landward of the 1978 Coastal Construction Control Line. This line has been used on the Future Land Use Map to delineate the edge of land-use categories allowing urban development. Some existing buildings lie partially seaward of this line; when these buildings are reconstructed (either before or after a natural disaster), they shall be rebuilt landward of this line. Exceptions to this rule may be permitted by the town only where it can be scientifically demonstrated that the 1978 line is irrelevant because of more recent changes to the natural shoreline. The town shall seek the opinion of the Florida Department of Environmental Protection in evaluating any requests for exceptions. (Exceptions must also comply with all state laws and regulations regarding coastal construction.)

Application #: 2008-05-TEXT

Description: Clarify Policy 4-C-6 so that it unquestionably applies to all guest units, not just to motel rooms

Pages to be changed: Comprehensive Plan Pages 4-19—4-23 and 4-49—4-50 (proposed changes are attached)

Discussion in E/A Report (adopted on Jan 16 '07): *From Page 15—16:*

"To set the town's new policy, the 1999 comprehensive plan added Policy 4-C-6:

"POLICY 4-C-6: MOTEL DENSITIES: The Land Development Code shall specify equivalency factors between motel rooms and full dwelling units. These factors may vary based on size of motel room and on land-use categories on the Future Land Use Map. They may vary between a low of one motel room and a high of three motel rooms for each dwelling unit. (These factors would apply only where motels are already permitted.)

"The comprehensive plan discusses motel rooms and residential dwelling units but it never clearly defines motel rooms or determines where the regulatory line should occur in the continuum between motel rooms and dwelling units.

"To implement Policy 4-C-6, the new land development code defines "hotel/motel," "resort," "timeshare," and then defines a new term "guest unit" to distinguish these transient units from residential dwelling units, as follows:

"Hotel/motel means a building, or group of buildings on the same premises and under single control, which are kept, used, maintained or advertised as, or held out to the public to be, a place where sleeping accommodations are supplied for pay to transient guests for periods of one day or longer. See division 19 of article IV of this chapter.

"Resort means a mixed-use facility that accommodates transient guests or vacationers. Resorts contain at least 50 units, which may include a combination of dwelling units, guest units and timeshare units, and provide food service, outdoor recreational activities, and/or conference facilities for their guests.

"Timeshare unit means any dwelling unit, guest unit, or living unit for which a timesharing plan, as defined in F.S. ch. 721, has been established and documented. See § 34-632 for determining density of timeshare units that include "lock-off accommodations."

"Guest unit means a room or group of rooms in a hotel/motel or bed-and-breakfast inn that are designed to be used as temporary accommodations for one or more people traveling together. All guest units provide for sleeping and sanitation, although sanitation may be provided through shared bathrooms.

"The number of guest units that may be constructed was then established as a multiplier of the number of permitted dwelling units (the table of multipliers from § 34-1803 of the land development code is reprinted on page 8).

"Policy 4-C-6 and its implementation through the land development code have been successful in

clarifying the rules for new hotels and motels and ensuring that new transient units get the maximum multiplier only if they are smaller than 450 square feet, with the multiplier dropping when the units are between 450 and 750 square feet, dropping again between 750 and 1,000 square feet, then offering no multiplier at all when the units exceed 1,000 square feet.

"This method of implementation seemingly avoids the need to regulate whether a "guest unit" has no kitchen, a kitchenette, or even a full kitchen, since the multiplier is related mainly to physical size (and secondarily to location on the Future Land Use Map).

"However, the issue of what exactly is a "guest unit" versus a "dwelling unit" is still relevant. First, the multipliers are only applicable to guest units; small apartments, for instance, are not allowed to use these multipliers. Second, the land development code designates all types of short-term rental units as "lodging" uses, including bed-and-breakfast inns, hotels, motels, resorts, and even weekly or monthly rentals of residential dwelling units. (All lodging uses and all residential uses are allowed in the Downtown, Commercial Resort, and Santini zoning districts; some lodging uses are allowed in several other zoning districts.)

"Although the town restricts where lodging uses may be constructed, it gives them special consideration by allowing certain multipliers to the residential density cap. As long as this special consideration is being extended, the regulations need to be clearer about what type of units qualify for that consideration; this is a larger issue than the size of individual units.'

Action by LPA: During a public hearing on May 20, 2008, the LPA recommended that the Town Council approve these changes as proposed in this report:

- Changes to Page 4-23 of the narrative in the Future Land Use Element
- Changes to Policies 4-C-6 of the Future Land Use Element

The minutes of the public hearing are attached.

Action by Town Council: During a public hearing on November 17, 2008, the Town Council voted unanimously to transmit this amendment for state review.

DCA Objection: None

DCA Recommendation: None

Response to DCA: N/A

Proposed Final Action: The Town Council should adopt the transmitted amendment, as described above, as part of Ordinance 09-03.

Final Action: The Town Council adopted this amendment on August 17, 2009, as part of Ordinance 09-03.
(Text shown in red is new or has changed since the initial transmittal of this amendment in January 2009.)

HISTORICALLY HIGH DENSITIES

Constant concerns at Fort Myers Beach include the excessive crowding during the winter and fears over the ability to evacuate the island when a hurricane approaches. Existing development was approved without regard to the adequacy of the road system (although the impacts of tourism and day visitors are an equally important factor in winter crowding).

Multifamily Densities

The density of multifamily development at Fort Myers Beach averages 17.2 units per acre (in 1996, 5,269 units, including duplexes, on 305.5 acres). Table 4-1 provides the densities of several multifamily developments across the island.

Table 4-1 — Multi-Family Densities

Name	***Address***	*# of dwelling units*	*# of total acres*	*units per acre*	*stories tall*
Marina Towers	8401 Estero	63	2.77	**23**	9
Sun Caper	7930 Estero	69	2.75	**25**	10
Leonardo Arms	7400 Estero	180	6.28	**29**	7
Ocean Harbor	4741 Estero	150	9.70	**15**	16
Caper Beach Club	2810 Estero	103	1.27	**81**	12
Batiki West	1511 Estero	60	1.86	**32**	7
Pink Shell Beach Club I	327 Estero	15	0.83	**18**	7

At the older (northwest) end of the island, existing development has achieved a desirable level of "compactness" which allows people to move comfortably about without driving everywhere. Yet the south end of the island has not done so despite higher densities there.

Compactness is not the same as density. Compact development can occur with densities as low as four units per acre if homes aren't stacked vertically and if driveways and garages do not dominate the street side of houses and businesses.

High-rise buildings surrounded by ground-level parking lots can almost never achieve compactness, because higher densities are translated into taller buildings requiring ever larger parking lots. "Compact" high-rise development would require extensive public transportation and parking garages to avoid separating buildings so widely that compactness is lost.

Without compactness, high densities require an advanced system of highways and parking facilities to accommodate most movement by car. Parking each car requires 275 square feet (counting aisles and driveways). That same car takes up as much road space as 40 bus passengers or 12 bicyclists. The wide highways and large parking lots needed for "automobility" create barriers to movement by all other modes of travel.

The following section examines specific density issues for hotels and motels.

Hotel and Motel Densities

Until a 1997 interim change, town regulations allowed up to three hotel/motel units in place of each regular dwelling unit. This ratio is substantially lower than the county's rules in effect until 1994, which allowed convention hotels at 50 rooms per acre, but it is still a high ratio given the overcrowded conditions at Fort Myers Beach.

This section provides some history as to how this issue has been treated in the past, and outlines an alternate plan for future hotels and motels.

At Fort Myers Beach there is only a slight distinction between motels and some other types of accommodations for tourists. The Land Development Code must make a clear distinction, however, if it provides a density multiplier or bonus for motels. Current regulations define a motel (or hotel) as:

> *a building, or group of buildings on the same premises and under single control, consisting of ten or more sleeping rooms*

which are kept, used, maintained or advertised as, or held out to the public to be, a place where sleeping accommodations are supplied for pay to transient guests or tenants.

In order to qualify for density multipliers, motels also must be registered with the state and must pay Lee County's tourist development tax. Hotels and motels are further divided into "efficiency motels" (primarily for tourists) and "business motels" (all others).

Limited kitchen facilities are allowed in efficiency motels, but they may not be as extensive as a separate room. A building that looks like a motel but does not meet all of these tests is treated by current regulations as multifamily housing, and is therefore subject to much stricter density regulations.

A new motel (or hotel) that qualifies under the current zoning regulations can have substantially more rental units than would be allowed for multifamily housing. Under the current rules, a minimum of three "business" hotel/motel units are guaranteed for each *one* regular dwelling that would otherwise be allowed (in zoning districts where motels are permitted); this ratio is two for one for "efficiency" motels. With a maximum number of new dwelling allowed under the comprehensive plan of 6 units per acre, 18 hotel or motel units can be built. In addition, a landowner can request higher densities yet during a planned development rezoning (with no maximum cap), provided that the Town Council finds that the higher density would be "compatible with the surrounding area." (Due to concerns over these density multipliers, they were suspended by ordinance in late 1997 pending the completion of this comprehensive plan.)

These density multipliers were established by Lee County in 1994, when it repealed the previous rule that categorized hotels and motels into three types: transient (25 units per acre); efficiency (2.5 units for each multifamily dwelling unit); and convention (50 units per acre).

Lee County has since added new restrictions on motel densities in the unincorporated area, eliminating the dubious distinction between efficiency and business motels in favor of density ratios based on the actual floor area of each rental unit, regardless of unit type. For *each* allowable dwelling unit, the following number of new hotels and motels will be allowed:

- Three rental units under 425 square feet; or
- Two rental units under 725 square feet; or
- One rental unit over 725 square feet.

However, if approved through a planned development rezoning, even higher ratios may be approved, "provided all other aspects of the development (height, traffic, intensity of use, etc.) are found to be compatible with the surrounding area."

To illustrate the numerical densities with actual examples, Table 4-2 provides official data on the density of a selection of existing motels at Fort Myers Beach.

Table 4-2 — Hotel/Motel Densities

Name	***Address***	*# of rental units*	*# of total acres*	*rental units per acre*
Lani Kai Island Resort	1400 Estero	100	0.98	**102**
Ramada Inn	1160 Estero	70	0.87	**80**
Lighthouse Island Resort	1051 5th St.	40	0.72	**56**
Outrigger Beach Resort	6200 Estero	144	3.92	**37**
Days Inn	1130 Estero	33	0.98	**34**
Best Western	684 Estero	75	2.87	**26**
Buccaneer Resort Inn	4864 Estero	25	0.98	**26**
Holiday Inn	6890 Estero	103	3.91	**26**
Neptune Inn	2310 Estero	65	2.86	**23**
Sandbar Resort	5480 Estero	12	0.61	**20**
Carousel Motel	6230 Estero	26	1.52	**17**

In 1996 there were about 1227 motel rooms in the town of Fort Myers Beach using a total of 32.3 acres of land, yielding an average density of 38 rooms per acre. This is more than double the average multifamily density of 17.2 dwelling units per acre.

Since adoption of the 1984 Lee Plan, the density of new multifamily buildings has been limited to 6 dwelling units per acre, quite low compared to the average *existing* multifamily density. Much of the multifamily development that has taken place since 1984 has taken advantage of pre-1984 approvals or court orders (for example, at Bay Beach and Gullwing). Because of the substantial density multipliers that Lee County has allowed for motels and the continued demand for short-term rental units, landowners without vested approvals or court orders are being provided an incentive to build motels instead of condominiums.

An unanswered question is the economics of renting motel rooms versus renting full dwelling units (with kitchens and bedrooms). Conflicting testimony has been presented on this question during the preparation of this comprehensive plan. Some have asserted that the rental market for condominiums (or suite-type motel units) is poor relative to the supply; and others have stated that full-sized condominiums remain the best and most profitable rental market at Fort Myers Beach.

Two charts illustrate pertinent tourism data collected by the Lee County Visitor and Convention Bureau. Figure 6 shows occupancy rates by month for the past five years (for motels, hotels, and other short-term rentals). A slight "flattening" of the February-March peak season is evident, along with the strengthening of tourism during November, January, April, and May. Figure 7 compares the 1995 average daily rates with other parts of Lee County, with Fort Myers Beach remaining well below Sanibel and Captiva but above Fort Myers, Cape Coral, and Bonita Springs.

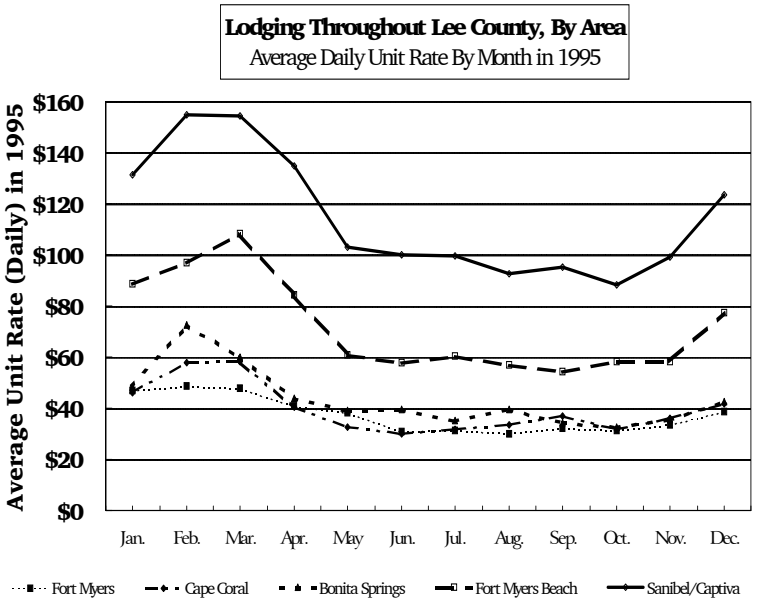


Figure 1, Comparative lodging rates

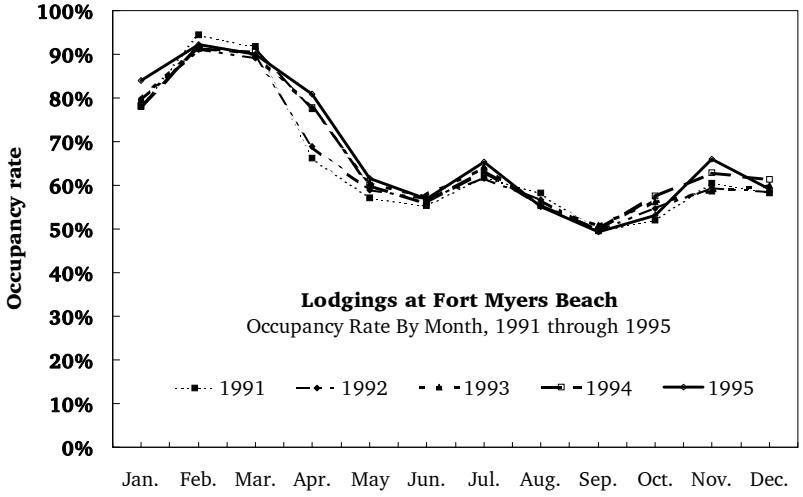


Figure 2, Occupancy rates at Fort Myers Beach

Several Florida coastal communities were surveyed to determine how they regulate motel densities.

The city of Sarasota allows unlimited hotel and motel units anywhere in their downtown; multifamily units are also allowed there at 50 dwelling units per acre. Sarasota also allows motels by special exception in several of their higher-intensity multifamily districts (those allowing up to 18 through 35 dwelling units per acre). Two hotel or motel units are allowed for each dwelling unit.

The city of Deerfield Beach allows hotels and motels by special exception in its highest-intensity multifamily district, which allows up to 25 dwelling units per acre. If approved, motels may have up to 38 units per acre.

The city of Sanibel has what might be called a *reverse multiplier* for all resort housing (which includes motels and any other units that can be rented for less than 4 consecutive weeks). In its highest density category, 5 regular dwelling units are allowed per acre, with an assumed capacity of 2.2 persons per unit. Where resort housing is allowed, its density is calculated to maintain the same *presumed number of persons*. This is an attempt to gauge the relative impact of varying housing types by projecting the number of residents, rather than by measuring the physical size or other measure of impact. Table 4-3 shows Sanibel's presumed average rates, and the resulting density multiplier.

As a consequence of Sanibel's low multifamily density cap and its "reverse" multiplier, only one new motel has been built in the 20+ years since incorporation, and it was not a financial success. A similar approach might cause the same result at Fort Myers Beach.

Table 4-3 — Sanibel Density Multipliers

Type of Resort Housing Unit	*Presumed Average Occupancy Rate*	*Calculated Multiplier*
Motel rooms and 1-bedroom units up to 600 sq. ft.	2.5 persons per unit	0.88
2-bedroom units	3.5 persons per unit	0.63
3-bedroom units	4.25 persons per unit	0.52
4-bedroom units	5.0 persons per unit	0.44

In summary, density multipliers for motels are not universally used. Where high densities are allowed for multifamily units, multipliers aren't necessary. Where density caps are relatively low (such as Sanibel and Fort Myers Beach), some positive density multiplier will be needed if new and refurbished motels are to play an important role in the community. However, it is clear from recent history that density multipliers that are too high will result in buildings that will overwhelm the small-town character of most of Fort Myers Beach.

The current single density cap across the entire island could lead to a situation where attempts to protect quiet residential neighborhoods could stifle the tourism economy in the main business district. Since most communities do not put density multipliers for motel rooms in their comprehensive plans, they could be contained in the Land Development Code, for instance by having lower density multipliers for motels in multifamily zones than for those in commercial zones. (Note that *new* motels are not allowed in multifamily zoning districts, but *existing* motels there may be completely rebuilt at up to whatever density is currently allowed.)

The selected solution for the Town of Fort Myers Beach is to adopt different density multipliers based on land-use categories on the new Future Land Use Map. These multipliers will only apply where guest units (which include motels) are permitted in a specific zoning category. The exact multipliers will be contained in the Land Development Code; an example might be:

- In the "Mixed Residential" category, the multiplier might be 1.5
- In the "Boulevard" category, the multiplier might be 2.0
- In the "Pedestrian Commercial" category, the multiplier might be 2.5, provided that some or all parking is provided in off-site shared lots.

Policy 4-C-6 describes this concept, which will be implemented through forthcoming revisions to the Land Development Code.

a. the type of commercial activities (such as traffic to be generated, hours of operation, and noise);
b. its physical scale (such as the height, and bulk of proposed buildings); and
c. the orientation of buildings and parking).

Commercial activities that will intrude into residential neighborhoods because of their type, scale, or orientation shall not be approved.

POLICY 4-C-4 **BUILDING HEIGHTS:** The Land Development Code shall limit the height of new buildings under most conditions to two stories above flood elevation (exceptions may include the buildback situations (see Policies 4-D-1 and 4-E-1), and different heights may be applied to officially designated redevelopment areas such as Times Square, Red Coconut/Gulf View Colony, and Villa Santini Plaza). In those few cases where individual parcels of land are so surrounded by tall buildings on lots that are contiguous (or directly across a street) that this two-story height limit would be unreasonable, landowners may seek relief through the planned development rezoning process, which requires a public hearing and notification of adjacent property owners. The town will approve, modify, or deny such requests after evaluating the level of unfairness that would result from the specific circumstances and the degree the specific proposal conforms with all aspects of this comprehensive plan, including its land-use and design policies, pedestrian orientation, and natural resource criteria. Particular attention would be paid to any permanent view corridors to Gulf or Bay waters that could be provided in exchange for allowing a building to be taller than two stories. In each case, the town shall balance the public benefits of the height limit against other public benefits that would result from the specific proposal.

POLICY 4-C-5 **DENSITY:** This plan establishes density levels as the maximum number of residential dwelling units allowed per acre of land (DU/acre). This acreage includes all residential land plus land within the development to be used for street and utility rights-of-way, recreation and open space, water management, and existing lakes that are entirely contained within the residential development. Commercial and other non-residential land shall not be included in this acreage; however, where mixed uses are permitted in a single building, residential densities will be computed without regard for commercial uses located on lower floors. When computing densities on existing subdivisions where lots are smaller than 15,000 square feet, one-half the width of adjoining streets and canals may be included in the acreage, and computed densities greater than 1.50 DU/acre may be rounded up to two dwelling units where multiple dwelling are permitted.

POLICY 4-C-6 **MOTEL DENSITIES:** The Land Development Code shall specify equivalency factors between guest units (which include motel rooms) and full dwelling units. These factors may vary based on size of guest unit ~~motel room~~ and on land-use categories on the Future Land Use Map. They may vary between a low of one guest unit ~~motel room~~ and a high of three guest units ~~motel rooms~~ for each dwelling unit. (These factors would apply only where guest units ~~motels~~ are already permitted.) In order to implement the 1999 Old San Carlos Boulevard / Crescent Street Master Plan that encourages mixed-use buildings with second and third floors over shops on Old San Carlos, hotel rooms may be substituted for otherwise allowable office space in that situation and location only without using the equivalency

factors that apply everywhere else in the town. This alternate method for capping the number of hotel rooms applies only to properties between Fifth to First Streets that lie within 200 feet east and west of the centerline of Old San Carlos Boulevard. Hotel rooms built under this alternate method must have at least 250 square feet per rentable unit, and under no circumstances shall buildings they are located in exceed four stories (with the ground level counted as the first story).

POLICY 4-C-7 **ACCESSORY APARTMENTS:** Accessory apartments are common at Fort Myers Beach and may be legal under several circumstances:

i. If the apartment is in a building that meets all requirements (including density limits in this plan); or
ii. If the apartment was built prior to zoning in 1962 and has been in continuous use, it may qualify as a "legally non-conforming use" and can continue in use until taken out of service; or
iii. If the apartment was built between 1962 and 1984 and complies with all requirements except the density cap of 6 dwelling units per acre and the floodplain elevation requirements (both of which took effect in 1984); or
iv. If a single existing apartment is in an owner-occupied home, it is not considered an independent dwelling unit and may be allowed under certain conditions as specified in the Land Development Code.

POLICY 4-C-8 **DENSITY TRANSFERS:** The Town Council may, at its discretion, permit the transfer of residential and hotel/motel development rights from one parcel to another if the following conditions are met:

v. the transfer is clearly in the public interest, as determined by the Town Council;
vi. the parcels affected by the transfer are in close proximity to each other;
vii. the density of residential or hotel/motel units being transferred is based upon allowable density levels in the category from which the density is being transferred;
viii. the transfer is approved through the planned development rezoning process; and
ix. binding permanent restrictions are placed on the property from which development rights have been transferred to guarantee the permanence of the transfer.

POLICY 4-C-9 **UTILITY SERVICES:** Utility services may be constructed in any category on the Future Land Use Map provided all development regulations are met including proper zoning.

POLICY 4-C-10 **MAP AMENDMENTS:** The intensity and density levels allowed by the Future Land Use Map may be increased through formal amendments to this plan if such increases are clearly in the public interest, not just in the private interest of a petitioning landowner. Petitions from landowners will be accepted annually. The Town Council may accept applications more frequently at its sole discretion.

POLICY 4-C-11 **SANTOS ROAD:** The town is interested in considering land-use alternatives for parcels bordering Palermo Circle, Santos Road, and Estero Boulevard. Alternatives may include: Santos Road being added into the pedestrian zone; limited retail on the ground floor along Santos, with shared off-site parking; better buffering of existing parking and refuse areas; and a clear separation between all commercial uses and the residential areas

Application #: 2008-06-TEXT

Description: Amend the Future Land Use Element to establish as town policy the desirability of retaining a wide variety of short-term lodging establishments that support the town's economy and walkability, and to specifically allow condominium ownership of lodging establishments provided they will be operated as hotels or motels

Pages to be changed: Comprehensive Plan Pages 4–23 and 4–44 (proposed changes are attached)

Discussion in E/A Report (adopted on Jan 16 '07):

"In recent years property values have been escalating at previously unforeseen rates. The health of the lodging industry is very cyclical and thus it is often difficult to obtain construction financing. In addition, the future of the lodging industry at Fort Myers Beach is now being eclipsed by real estate investors and condominium buyers whose optimism for continuing increases in underlying property values are driving the real estate market continually upward. While the town hesitates to encourage new hotels and motels given the past overbuilding at Fort Myers Beach, the loss of the town's active and healthy lodging industry would change the character of Fort Myers Beach forever.

"The town's options to respond to this situation are fairly limited. The most effective options are simply to ensure that town policies and regulations do not inadvertently contribute to the displacement of existing hotels and motels. To this end, the pre-disaster buildback policy should be clarified to ensure that large condominium buildings cannot be substituted for existing hotels and motels in the guise of buildback. (New condominiums or other residential buildings could still replace older hotels or motels, but the new structures would have to meet today's more restrictive density cap.)

"The comprehensive plan should also be amended to establish as town policy the desirability of retaining a wide variety of short-term lodging establishments that support the town's economy and walkability, and to specifically allow condominium ownership of lodging establishments (provided they will be operated as hotels or motels)... *[from page 18 of E/A Report]*

Action by LPA: During a public hearing on November 18, 2008, the LPA unanimously recommended that the Town Council approve the changes as outlined in this report.

Action by Town Council: During a public hearing on December 15, 2008, the Town Council voted unanimously to transmit this amendment for state review.

DCA Objection: None

DCA Recommendation: None

Response to DCA: N/A

Proposed Final Action: The Town Council should adopt the transmitted amendment, as described above, as part of Ordinance 09-03.

Final Action: The Town Council adopted this amendment on August 17, 2009, as part of Ordinance 09-03.
(Text shown in red is new or has changed since the initial transmittal of this amendment in January 2009.)

The selected solution for the Town of Fort Myers Beach is to adopt different density multipliers based on land-use categories on the new Future Land Use Map. These multipliers will only apply where motels are permitted in a specific zoning category. The exact multipliers will be contained in the Land Development Code; an example might be:

- In the "Mixed Residential" category, the multiplier might be 1.5
- In the "Boulevard" category, the multiplier might be 2.0
- In the "Pedestrian Commercial" category, the multiplier might be 2.5, provided that some or all parking is provided in off-site shared lots.

Policy 4-C-6 describes this concept, which will be implemented through forthcoming revisions to the Land Development Code.

Throughout the 1990s, one of the biggest concerns of town residents was the continuing expansion of commercial uses. Only five years after this plan was adopted in late 1998, property values were escalating at previously unforeseen rates, and suddenly the opposite trend was being seen: the frequent conversion of longstanding commercial uses, primarily hotels and motels, into upscale condominiums.

The health of the lodging industry has always been cyclical, but the new wave of escalating property values threatened to change the town's entire economy. These increases were driven by real estate investors and condominium buyers whose optimism for continuing increases in underlying property values drove the real estate market continually upward. In the absence of vacant land to construct new condominiums, the land under viable hotels and motels was suddenly worth far more than the businesses themselves.

While the town has long hesitated to encourage new hotels and motels given the past overbuilding at Fort Myers Beach, the loss of the town's active and healthy lodging industry would mean a permanent change to the character of Fort Myers Beach. Although tourism is sometimes overwhelming to permanent residents, tourism also provides benefits to residents, including investment and recreational opportunities, employment, and choices for dining and entertainment that are far beyond what would be available if they were serving the resident population alone. Many residents have chosen to make Fort Myers Beach their home for these very reasons.

The pressure for these hotel/motel conversions had abated somewhat by 2008, but the situation is likely to reoccur whenever the real estate market recovers. The town's options to respond to such situations are fairly limited. The most effective options are simply to ensure that town policies and regulations do not inadvertently contribute to the displacement of existing hotels and motels. To this end, the pre-disaster buildback policy was clarified in early 2009 to ensure that large condominium buildings cannot be substituted for existing hotels and motels in the guise of buildback (see Policy 4-E-1). New condominiums or other residential buildings can still replace older hotels or motels, but the new structures would have to meet the current more restrictive density cap.

The comprehensive plan was also amended in early 2009 to establish as general town policy the desirability of retaining a wide variety of short-term lodging establishments that support the town's economy and walkability (see Policy 4-A-9),

Policy 4-A-10 was also added to specifically allow condominium ownership of lodging establishments (provided they will be operated as hotels or motels). Detailed requirements will be contained in the Land Development Code, for instance requiring licensing by the state as a hotel or motel and regular payment of tourist and sales taxes on all rentals, limiting stays to a fixed period, disallowing all permanent residency, and requiring a staffed front desk to arrange transient rentals.

GOALS - OBJECTIVES - POLICIES

Based on the analysis of land use issues in this element, the following goals, objectives, and policies are adopted into the Fort Myers Beach Comprehensive Plan:

GOAL 4: To keep Fort Myers Beach a healthy and vibrant "small town," while capitalizing on the vitality and amenities available in a beach–resort environment and minimizing the damage that a hurricane could inflict.

OBJECTIVE 4-A SMALL-TOWN CHARACTER — Maintain the small-town character of Fort Myers Beach and the pedestrian-oriented "public realm" that allows people to move around without their cars even in the midst of peak-season congestion..

POLICY 4 -A-1 Maintaining the town's current "human scale" is a fundamental redevelopment principle. Fort Myers Beach is best enjoyed from outside a car; new buildings should be designed to encourage use or admiration by people on foot or bicycle, rather than separating them with gates, walls, deep setbacks, or unnecessary building heights.

POLICY 4 -A-2 The Town of Fort Myers Beach values its vibrant economy and walkable commercial areas. Through this plan, the town will ensure that new commercial activities, when allowed, will contribute to the pedestrian-oriented public realm.

POLICY 4 -A-3 The town shall protect residential neighborhoods from intrusive commercial activities (see Policies 4-C-2 and 4-C-3 below).

POLICY 4 -A-4 Easy walking access to the beach is a key element of the town's human scale. Development trends that inhibit this access are undesirable (including traffic improvements to Estero Boulevard that would make it a barrier to the beach for pedestrians).

POLICY 4 -A-5 The town contains many important natural resources despite its urbanized character. Preservation of those resources is of the highest importance and is a frequent theme throughout this plan.

POLICY 4 -A-6 The beaches provide incomparable recreational and environmental benefits to the town; careful management of the beach, including renourishment when necessary, can increase both. Frequent beach accesses are essential to the town's character and shall be maintained and expanded where possible.

POLICY 4 -A-7 Estero Bay also provides great benefits to the town and can be enhanced by improving public access and reversing the decline in water quality. The Conservation and Coastal Management Elements of this plan outline the town's efforts on these matters.

POLICY 4 -A-8 The town shall establish clear and consistent rules and processes that govern private and public development. They shall be incorporated into an illustrated Land Development Code that:

i. defines the permitted uses and illustrates the dimensions needed to implement this comprehensive plan;
ii. illustrates the types and dimensions of allowable signs that will identify

businesses and other destinations without damaging the aesthetic qualities of the town;

iii. resolves inconsistencies between current zoning and land development regulations and this comprehensive plan using the guidelines found in Chapter 15;

iv. encourages the conservation and re-use of historic buildings as described in the Historic Preservation Element;

v. in existing subdivisions, controls the scale of new homes to avoid the replacement of existing homes with excessively large structures; and

vi. ensures the availability of public facilities at the levels of service specified in this plan concurrently with the impacts of development (see Capital Improvements Element for a summary of these levels of service plus guidelines for the town's Concurrency Management System).

POLICY 4 -A-9 Many amenities available to local residents are the result of the local tourist economy and would diminish if hotels and motels were displaced. Landowners may redevelop hotels and motels for other uses, but special incentives of this plan such as post-disaster and pre-disaster buildback (Objectives 4-D and 4-E) only apply if the current use is maintained.

POLICY 4 -A-10 Hotels and motels may be constructed or converted to condominium ownership provided they are operated as hotels or motels. The Land Development Code provides detailed regulations that distinguish hotels and motels from residential uses and other types of lodging.

OBJECTIVE 4-B FUTURE LAND USE MAP CATEGORIES — Reduce the potential for further overbuilding through a new Future Land Use Map that protects remaining natural and historic resources, preserves the small-town character of Fort Myers Beach, and protects residential neighborhoods against commercial intrusions.

POLICY 4 -B-1 **OVERBUILDING:** Judicious planning could have avoided the kind of overbuilding found at Fort Myers Beach by limiting construction to match road capacity and the physical environment. Since such planning came too late, the town must deal with today's congestion plus the impacts of future development that has vested rights to proceed. These conditions have shaped the vision of this plan, as development rights once granted are not easily or lightly reversed; great care has been taken in this plan to balance important public and private rights.

POLICY 4 -B-2 **MAP ADOPTION:** The Town of Fort Myers Beach hereby adopts a Future Land Use Map (Figure 16) to govern further subdivision and development within its municipal boundary. This map advances the principles of this comprehensive plan by assigning one of eight categories to all land and water, based on its location, condition, and existing uses:

POLICY 4 -B-3 **"LOW DENSITY":** designed for existing subdivisions with an established low-density character (primarily single-family homes). For new development, the maximum density is 4 dwelling units per acre, and

Application #: 2008-07-TEXT

Description: Amend Policy 7-B-3 to make its second clause permissive rather than mandatory and to reference the potential for other reasons that might cause the town to negotiate turnover of maintenance responsibility for Estero Boulevard; amend Objective 7-E in a corresponding manner

Pages to be changed: Comprehensive Plan Pages 7-A-44—7-A-45 (no changes required) and 7-28—7-29 (proposed changes are attached)

Discussion in E/A Report (adopted on Jan 16 '07): *From Page 46:*
EXISTING POLICY 7-B-3 IMPROVEMENTS TO ESTERO BOULEVARD: The Town of Fort Myers Beach shall initiate additional pedestrian and streetscape improvements along Estero Boulevard beginning in 1999, and shall negotiate with Lee County for the turnover of responsibility for its maintenance if necessary to carry out these improvements.

"EVALUATION OF POLICY 7-B-3: ...Serious discussions of transferring maintenance responsibility for Estero Boulevard to the town have not taken place. However, the county and town are now jointly carrying out an important study of the feasibility of a transit-only lane on Estero Boulevard (see page 52). Detailed plans for improvements have been delayed until the feasibility can be determined.

"This policy would be improved if two changes were made to its second clause: the second clause should be permissive rather than mandatory, and it should also reference the potential for other reasons to cause the town to negotiate turnover of maintenance responsibility for Estero Boulevard."

Action by LPA: During a public hearing on May 20, 2008, the LPA recommended that the Town Council approve changes to Policies 7-B-3 and Objective 7-E of the Transportation Element. The LPA's suggested revised wording has been incorporated into this report. ~~The minutes of the public hearing are attached.~~

Action by Town Council: During a public hearing on November 17, 2008, the Town Council voted unanimously to transmit this amendment for state review.

DCA Objection: None

DCA Recommendation: None

Response to DCA: N/A

Proposed Final Action: The Town Council should adopt the transmitted amendment, as described above, as part of Ordinance 09-03.

Final Action: The Town Council adopted this amendment on August 17, 2009, as part of Ordinance 09-03.
(Text shown in red is new or has changed since the initial transmittal of this amendment in January 2009.)

along Estero Boulevard to emphasize heavy pedestrian use there. In addition, the new "zebra" pedestrian crossings alert motorists of pedestrian crossings, primarily at beach access points (13 out of the 36 beach access points have pedestrian crossings) and more intense commercial and residential nodes (Times Square, Villa Santini Plaza, and Red Coconut RV Park). Their effectiveness cannot be gauged yet but some reduction in injuries and property damage have already appeared. Lee County is now considering new signs that would encourage northbound traffic to use Crescent Street to reach the bridge or the north end of the island.

Hurricane evacuation signs are currently located only at Lovers Lane, Donora Boulevard, Washington Street, and Lenell Road, with the first two directing the traffic towards San Carlos Boulevard and the last two towards Bonita Beach. The point of division is about 2 miles south of Times Square, although no data has been located that would support this split of traffic. The signs at Donora and Washington face traffic from the local roads, while the signs at Lovers Lane face northbound traffic and signs at Lenell face southbound traffic along Estero Boulevard. The location and adequacy of these signs needs to be evaluated now that San Carlos Boulevard and Bonita Beach Road have been widened and any low points on the evacuation routes can be identified. The current division of evacuation traffic should be considered preliminary and subject to further evaluation.

During an evacuation, instructions from law enforcement and emergency management personnel will supersede the signs, but prior to those agencies taking control, opportunities for an early, orderly, and safe evacuation could be lost without proper attention to details such as roadway elevations and properly located signs. Also, the signs provide a constant reminder of the potential danger and general instructions on how best to proceed if evacuation is needed.

Tolls on Bridges

Currently, road maintenance at Fort Myers Beach is divided between the state, the county, and the town. The Florida Department of Transportation (FDOT) maintains San Carlos Boulevard from the signalized crosswalk at Times Square to McGregor Boulevard on the mainland. Lee County DOT maintains Estero Boulevard from the crosswalk south to Big Carlos Pass and beyond. The county has retained maintenance of this portion primarily because Estero Boulevard is part of the county's arterial network and an evacuation route.

The town is responsible for maintaining all other public roads, including Old San Carlos and Estero Boulevard from Times Square north to Bowditch Point. The town does not have its own maintenance crews; it contracts maintenance work to private firms or to Lee County DOT through an interlocal agreement. Under this agreement, the county agrees to provide maintenance as requested by the town at rates that are specified in the agreement. The town and the county have recently extended this agreement through September 1998.

With the recent widening of San Carlos Boulevard and improvements to Estero Boulevard, the routine maintenance costs in the short term will be relatively low. The town could absorb those costs if Lee County and FDOT are willing to relinquish their responsibilities for these facilities. Table 7-A-9 summarizes the maintenance costs for these facilities in 1996.

Table 7-A-9 — Reported Maintenance Costs

Facility	*1996 Maintenance Cost*
Big Carlos Pass Bridge*	$70,000
Estero Boulevard	$37,500
Matanzas Pass Sky Bridge**	$1,000
San Carlos Boulevard***	$45,000

* *Includes bridge tenders salaries*
** *Hurricane Pass Bridge not available individually*
*** *Includes up to US 41 via McGregor/Colonial*

The benefits and costs of such a roadway turnover, however, need to be carefully evaluated. The immediate benefit of maintaining all the roads and bridges within the town would be the ease in decision-making about operational improvements such as traffic signals, speed limits, and reversible lanes. The immediate costs might be similar to those found in Table 7-A-7-A-4, plus the cost of professional engineering assistance.

The longer-term benefit of assuming responsibility would be the ability to implement the town's policies from a focus on "vehicle moving" to "people moving," without having to persuade several other jurisdictions every time an operational change is desired. The long-term costs would include major highway renovation and bridge replacement, including unexpected costs from hurricane damage. Avoiding those costs would be the likely motivation for the state and county to give up their current responsibilities. An independent engineering evaluation of the condition of both bridges would be essential before seriously negotiating over their future.

The turnover of county facilities to the town might be relatively easy due to the county's recent efforts to turn over responsibility for a wide variety of county facilities, especially those in cities, including neighborhood and community park maintenance (such as Bay Oaks) and arterial road maintenance (such as Periwinkle Way and Sanibel-Captiva Road on Sanibel).

The transfer of maintenance responsibility from the state, however, may be more complex. FDOT's general policy disfavors a piecemeal approach to turning over their facilities. Since the sky bridge is part of San Carlos Boulevard, FDOT can be expected to suggest that turnover of the bridge be connected with assuming responsibility for an entire link of San Carlos Boulevard to a logical terminus as far away as Summerlin Road (which is about 3 miles outside the town's boundary).

FDOT proposed a similar approach in 1995 during negotiations with Collier County about placing a toll on the bridge to Marco Island. FDOT cited its formal policy against imposing tolls where they are not needed to repay revenue bonds; this policy is designed to keep motorists from "paying a second time" for a facility that was built with traditional user fees such as gas taxes. However, FDOT will consider exceptions to this policy after examining the effect of tolls on the overall transportation system and how they relate to local transportation planning. (Whenever tolls are in excess of costs to maintain a road or bridge, FDOT uses them for other roads in the same county.) In the Marco Island case, FDOT suggested that Collier County might take over the Marco Island Bridge, but only in a package with all of State Road 951 from Marco Island to U.S. 41 (a distance of 7 miles). Then FDOT policy would not affect any decisions on tolls.

The imposition of tolls has the potential to modify travel behavior as well as be a significant revenue source for transportation purposes. Properly used, tolls can help manage congestion, with toll levels varying by season or time of day. There are potentially suitable sites for a toll facility off the island, but none on the island. Maintaining former county and state roads and bridges could allow the use of tolls if they prove desirable. The impact of tolls on the tourism-based economy of Fort Myers Beach, however, must be carefully evaluated before this possibility forms the basis of assuming additional road maintenance responsibility.

The town may also wish to consider the potential for future annexations in the same discussion on road turnover. For instance, a terminus on San Carlos Boulevard might be negotiated with FDOT in conjunction with establishing a maximum future boundary of the town, or considering the use of the San Carlos Boulevard right-of-way as the required contiguity with the town for land that doesn't directly abut the town's current boundaries. The same issues might arise in taking over responsibility for the Big Carlos Pass Bridge and portions of Hickory Boulevard beyond the bridge. The town

will be required to address both concerns.

POLICY 7-B-2 **WIDENING:** Under no circumstances shall conventional four-laning of Estero Boulevard be considered as a desirable means of improving traffic circulation on Estero Island.

POLICY 7-B-3 **IMPROVEMENTS TO ESTERO BOULEVARD:** The Town of Fort Myers Beach shall initiate additional pedestrian and streetscape improvements along Estero Boulevard beginning in 1999, and may ~~shall~~ negotiate with Lee County for the turnover of responsibility for its maintenance if necessary to carry out these improvements or to further other town policies.

OBJECTIVE 7-C EVACUATION ROUTE — Estero Boulevard's critical function as the sole evacuation route for Fort Myers Beach shall be considered in all planning and development activities.

POLICY 7-C-1 **EVACUATION CAPACITY:** Evacuation routes do not need to be designed as high-speed roadways. The critical factor is the total number of cars that can evacuate in a given period of time. The town shall evaluate all efforts by Lee County or by the town to reduce speeding on Estero Boulevard during the design phase to ensure that these efforts will not hinder an effective evacuation.

POLICY 7-C-2 **FLOODING:** The town shall analyze actual flooding of evacuation routes that occurs due to tropical storms or hurricanes, and shall initiate physical improvements that can avoid future flooding at those locations.

OBJECTIVE 7-D VARIETY OF TRAVEL MODES — The Town of Fort Myers Beach shall make efforts every year to improve mobility for its residents and visitors, striving for a balanced transportation system that allows safe movement even during peak periods of traffic congestion. These efforts may include further subsidies to improve the trolley system, the use of impact fees to improve sidewalks, and creation of critical links on the hidden-path system.

POLICY 7-D-1 **ARRIVE WITHOUT A CAR:** Fewer vehicles would be driven to Fort Myers Beach if scheduled airport shuttle service were available. The town shall encourage this service and the designation of a central drop-off point that could include a trolley stop and taxi stand.

POLICY 7-D-2 **IMPROVE TROLLEY SERVICE:** Trolley ridership increases when service is more frequent and when fares are low or free, yet no long-term funding or operational plan has been developed for providing higher service levels. Practical measures to improve trolley usage include:

i. Recurring subsidies from tourism sources so that service can be enhanced and congestion minimized during heavy seasonal traffic;
ii. Pull-offs at important stops along Estero Boulevard so that passengers can safely board and traffic is not blocked excessively; these pull-offs could be built during other improvements to Estero Boulevard or required by the Land Development Code during the redevelopment process.
iii. Clear signs at every stop with full route and fare information;

iv. Bus shelters at key locations, with roofs, benches, and transparent sides;
v. Replacement of the existing trolley buses with clean-fuel vehicles so that businesses won't object to having trolleys stop at their front doors; and
vi. Accommodation of the special needs of the transportation disadvantaged.

POLICY 7-D-3 **ALTERNATE TRAVEL MODES:** The town shall support alternatives to car travel to free up road capacity for trips that do require a car. Public funding sources shall include county/state gasoline taxes and road impact fees. The town shall modify its road impact fee ordinance by 1999 to allow these fees to be spent (within legal limits) on capital improvements that relieve road congestion, such as better sidewalks, trolley improvements, and off-island parking areas. The town seeks to at least double the usage of the trolley system by the year 2001 (from its 1996 total ridership level of 238,754).

POLICY 7-D-4 **ENCOURAGE WATER TAXIS:** Fort Myers Beach has great potential for water transportation, with its canals, natural waterways, and high levels of tourism. To encourage the private sector to provide this service, the town shall ease regulations that require a water taxi to provide dedicated parking spaces at every stop and shall encourage restaurants, motels, and marinas to provide dockage for water taxis. Where possible, water taxi drop-off sites should avoid areas of high manatee concentration, or use protective measure such as propeller guards, jet propulsion, or electric motors.

POLICY 7-D-5 **HIDDEN-PATH SYSTEM:** The town shall support the creation of a quiet network of "hidden paths" running on the Bay side parallel to Estero Boulevard. This network would provide an alternative to walking and cycling along Estero Boulevard (as described further in the Community Design Element). Initial land acquisition shall begin in 1999.

OBJECTIVE 7-E UPGRADE ESTERO BOULEVARD — As part of its congestion avoidance strategy, the town shall methodically upgrade Estero Boulevard to reduce speeding and encourage walking, as higher traffic speeds and car-oriented businesses are antithetical to its pedestrian character. (If a suitable partnership to this end cannot be achieved with Lee County, the town may ~~shall~~ consider taking on maintenance responsibility for Estero Boulevard.)

POLICY 7-E-1 **TIMES SQUARE STREETSCAPE:** The town shall begin work by 1999 toward extending southward the curbs, colorful sidewalks, and street trees installed by the Estero Island CRA in 1996. Similar sidewalks should be placed on both sides of Estero Boulevard as far south as the public library, including drainage, lighting, and trolley improvements. Unspent funds from the Estero Island CRA should be sought from Lee County toward this end. Generous urban sidewalks should also be built in the future around the Villa Santini Plaza as part of its redevelopment (as described in the Community Design Element).

POLICY 7-E-2 **TRAFFIC CALMING:** The town shall support two types of traffic calming to reduce speeding, which endangers lives and

Application #: 2008-08-TEXT

Description: Delete Policy 7-H-3 regarding left-turns on Estero Boulevard as northbound traffic passes Times Square

Pages to be changed: Comprehensive Plan Pages 7-23 and 7-32 (proposed changes are attached)

Discussion in E/A Report (adopted on Jan 16 '07): *From Page 23:* "EVALUATION OF POLICY 7-H-3: Eliminating left turns for northbound traffic headed toward Lynn Hall Park would require those vehicles to instead travel north on Crescent Street, under the Sky Bridge, and south on Old San Carlos to reach their destinations. Unfamiliar drivers who miss the turn at Crescent Street would have no choice but to leave the island then circle back and return. These difficulties have to be balanced with any minor improvements in traffic flow that would occur by eliminating this left turn. As described beginning on page 30 [of E/A Report], new alternatives have been examined for this area that are more promising than the simple closure of the turn lane as described in Policy 7-H-3."

Action by LPA: During a public hearing on May 20, 2008, the LPA recommended that the Town Council approve deletions to the narrative and to delete Policy 7-H-3 of the Transportation Element as presented in this report. ~~The minutes of the public hearing are attached.~~

Action by Town Council: During a public hearing on November 17, 2008, the Town Council voted unanimously to transmit this amendment for state review.

DCA Objection: None

DCA Recommendation: None

Response to DCA: N/A

Proposed Final Action: The Town Council should adopt the transmitted amendment, as described above, as part of Ordinance 09-03.

Final Action: The Town Council adopted this amendment on August 17, 2009, as part of Ordinance 09-03.
(Text shown in red is new or has changed since the initial transmittal of this amendment in January 2009.)

5. Experiment Widely

Although many resort communities have severe traffic problems, the exact nature of the problems can differ greatly. Although Lee County and Florida DOT have tried to address traffic problems at Fort Myers Beach, their attention is inevitably divided across their entire jurisdiction. The Town of Fort Myers Beach needs to constantly search for innovative solutions to long-standing problems and to new problems as they develop.

Many traffic engineering solutions can be tried as closely monitored experiments. The town can be a catalyst for those experiments, and may wish to retain a creative traffic engineer to provide advice on a continuing basis. This would be especially helpful if the town experiments with complex changes such as reversible lanes (see pages 7-A-35 to 7-A-39 of Appendix A).

An official spirit of experimentation will allow creative ideas to be tested without any stigma of failure if they prove unpopular or unproductive. The following list of experiments and data needs has been compiled from citizen comments during the preparation of this plan:

- Signalized pedestrian crossing at Times Square: This important pedestrian crossing was recently provided with a full traffic signal, actuated by pedestrian push-buttons. Since Estero Boulevard has only two lanes here, and traffic often moves slowly around the bend, pedestrians often tire of waiting for the light to change and cross when they see a gap in traffic. Motorists are then forced to stop for no apparent purpose. This signal might operate better as a continuously flashing yellow, especially if pedestrians had a more protected refuge between the lanes. If such an experiment failed to allow pedestrian crossings at an acceptable level of safety, a pedestrian overpass may be able to reduce the number of pedestrians in the crosswalk without discouraging foot traffic in this highly congested area.

- San Carlos Boulevard approach to the Matanzas Pass Sky Bridge: The widening of San Carlos Boulevard from the mainland has created severe problems on the approach to the sky bridge where its five lanes are reduced to two lanes. Initial experiments have already been tried to discourage drivers from using side streets on San Carlos Island to get ahead of the line of cars waiting to enter the bridge. Another problem is cars that pass the waiting line and then take advantage of polite tourists by slipping in at the front of the line, greatly lengthening the wait for all other drivers. Creative experimentation is certainly called for here.

- ~~Left-turns from Estero Boulevard onto Fifth Street: Just to the north of the crosswalk, a left-turn lane is provided for drivers headed for Lynn Hall Park or the north end of the island. This is convenient for those drivers but could be harmful if these turns interfere with traffic flow off the bridge or if they interfere with northbound traffic on Estero Boulevard. A 1994 traffic study for Lee County strongly recommended closing off this turn lane and directing northbound drivers across Crescent Street and under the bridge at First or Second Streets to reach the north end of the island. This detour has never been tried but has the potential to improve traffic flow.~~

- Variable message signs: These signs were discussed earlier as an ideal way to advise motorists of congestion delays and available parking. The signs themselves and their data-collection devices will require creative planning and engineering to fulfill their promise.

- Origin/destination data: The December 1993 origin/destination survey was a good source of data but

traffic flow at Fort Myers Beach. Some potential improvements are described in the following policies.

POLICY 7-H- 1 **PEDESTRIAN OVERPASSES:** Although pedestrian overpasses are often ignored by pedestrians, an overpass providing a panoramic view of the Gulf might be attractive enough to reduce at-grade crossings at Times Square without discouraging foot traffic in this highly congested area. Even without an overpass, the pedestrian-actuated stop light may be replaceable with a flashing caution light to minimize effects of the crossing on traffic flow.

POLICY 7-H- 2 **SAN CARLOS BOULEVARD:** The five-laning of San Carlos Boulevard has created severe problems near the approach to the Sky Bridge. Creative experiments are needed to discourage drivers from using the right-hand lane, or side streets on San Carlos Island, to bypass the line of cars waiting to enter the bridge.

POLICY 7-H- 3 **RESERVED** ~~**LEFT-TURNS AT TIMES SQUARE:** Northbound traffic headed for Lynn Hall Park now turns left just past Times Square. These turns could interfere with traffic flow on Estero Boulevard; if so, alternatives using Crescent Street should be considered.~~

POLICY 7-H- 4 **VARIABLE MESSAGE SIGNS:** These signs could advise motorists of congestion delays as well as available parking. The town should urge the detailed study of this concept by Lee County, FDOT, and the Metropolitan Planning Organization.

POLICY 7-H- 5 **ORIGIN/DESTINATION DATA:** Better data is needed on the origins and destinations of motorists during the peak season, and the town supports the MPO's efforts to obtain this data.

POLICY 7-H- 6 **TRANSPORTATION DEMAND MANAGEMENT:** This part of a congestion avoidance strategy reduces the number of single-occupant vehicles during peak traffic periods, either by eliminating some trips completely, or by accommodating existing trips in fewer vehicles, or by moving some trips before or after the most congested periods. This strategy may alleviate peak-season traffic congestion if implemented aggressively in cooperation with area businesses.

POLICY 7-H- 7 **DELIVERY VEHICLES:** To avoid interference with traffic and pedestrian flow, the town shall develop a strategy to limit commercial deliveries during peak traffic periods.

POLICY 7-H- 8 **FLOODING:** During periods of minor flooding, the town shall monitor the performance of roadside drainage systems on and off Estero Island to identify areas where an evacuation could be prematurely halted.

POLICY 7-H- 9 **PROFESSIONAL ASSISTANCE:** The town may wish to retain a creative traffic engineer to provide advice on these experiments on a continuing basis.

POLICY 7-H- 10 **CONNECTIONS TO ESTERO BOULEVARD:** An excessive number of streets and driveways have direct access to Estero Boulevard, reducing its ability to handle peak-season traffic. The town shall take advantage of any suitable opportunities to consolidate street connections into fewer access points onto Estero Boulevard.

Application #: 2008-09-TEXT

Description: Modify Policy 7-J-2 to set a new date for modifying the land development code to require a useful traffic impact analysis for new developments

Pages to be changed: Comprehensive Plan Pages 7-15 and 7-33 (proposed changes are attached)

Discussion in E/A Report (adopted on Jan 16 '07): *From Page 50:* "EVALUATION OF POLICY 7-J-2: This is the only policy in the plan that specifies a change to the LDC that has not yet been carried out. This task is more complex than had been anticipated and the 1999 date should be changed. The town may need to hire a specialized transportation consultant to create the specifications that developers would be required to follow in preparing traffic impact analyses for their proposed developments."

Action by LPA: During a public hearing on May 20, 2008, the LPA recommended that the Town Council approve changes to the narrative and to Policy 7-J-2 of the Transportation Element. The LPA's suggested revised wording has been incorporated into this report. ~~The minutes of the public hearing are attached.~~

Action by Town Council: During a public hearing on November 17, 2008, the Town Council voted unanimously to transmit this amendment for state review.

DCA Objection: None

DCA Recommendation: None

Response to DCA: N/A

Proposed Final Action: The Town Council should adopt the transmitted amendment, as described above, as part of Ordinance 09-03.

Final Action: The Town Council adopted this amendment on August 17, 2009, as part of Ordinance 09-03.
(Text shown in red is new or has changed since the initial transmittal of this amendment in January 2009.)

Improve sidewalks and bikeways

Fort Myers Beach has outstanding opportunities to increase pedestrian and bicycle activity. The physical layout of the community encourages walking and biking, with all homes within just a short distance from the beach and active commercial areas. Currently there are sidewalks on one side of most of Estero Boulevard, and Lee County has imminent plans to fill one gap from Buccaneer to Estrellita Drive using federal funds. The town should make every effort to have this project expanded to fill the other gap from the Villa Santini Plaza to Bay Beach Lane.

Future sidewalk projects would include sidewalks on the opposite side of Estero Boulevard, which would also improve safety and congestion by reducing the number of pedestrian crossings. In some areas, wide rights-of-way allow many design choices; in others, deep drainage ditches could be put underground and covered with new sidewalks.

Bicycles and pedestrians often share sidewalks, but that situation is not ideal, especially where the number of pedestrians is high and the sidewalks are narrow. Where the right-of-way is wide, separate bike paths and sidewalks can be built. In areas with limited right-of-way, bicyclists could be provided with extra-wide travel lanes (14 feet wide); bicyclists would then be able to ride with the flow of traffic, leaving the sidewalk to pedestrians. The ultimate result would be a resort environment that truly supports walking, bicycling, and public transportation.

There are several funding sources for sidewalks and bikeways, including federal "transportation enhancement" funds, gasoline tax proceeds, and (potentially) road impact fees. Another option would be the establishment of a special taxing or assessment districts (MST/BUs), which could be used in conjunction with lighting or other special districts.

Require traffic impact analyses for new development

Under current regulations, the traffic impacts of new development play almost no role in the approval or denial of development orders. The Diamondhead convention center, for instance, is being built between two of the most important nodes of activity on Fort Myers Beach, and will have great impacts on both. Under current rules, however, no traffic circulation analysis was required except for a determination of whether to build a single turn lane. (Further analysis wasn't required because no rezoning was needed and the number of trips generated in the peak hour fell below a fixed county-wide threshold.)

The town needs to ensure that its development regulations do not allow this situation to continue, and which consider the cumulative impacts of existing and potential development. The Land Development Code needs to be amended to lower the thresholds for requiring traffic impact analyses and to establish the type of analysis that will aid the town's decision-making process. Proper technical analyses must be required, with the results used to determine whether impacts are acceptable and whether an improved design could offset some of the impacts (as in the previous example in Figure 13 where stores separated from the sidewalk will reduce usage by pedestrians and increase traffic impacts). Another example might be parking limitation criteria whereby new trips generated as a result of new or expanded land uses could not trigger a demand for additional parking. The town will need to hire a specialized transportation consultant to create the specifications that developers would be required to follow in preparing traffic impact analyses for their proposed developments.

OBJECTIVE 7-I **LEVEL-OF-SERVICE STANDARD — Maintain minimum acceptable levels of service for the transportation system.**

POLICY 7-I- 1 Traffic congestion is a serious problem at Fort Myers Beach, caused by a combination of high tourism demand for its beaches and past over-building relative to road capacity. Neither factor is within the control of the Town of Fort Myers Beach, although its residents must tolerate congestion every winter. This comprehensive plan seeks to manage congestion levels and encourage alternate means of mobility including walking, bicycling, and trolleys.

POLICY 7-I- 2 The peak capacity of Estero Boulevard's congested segments is 1,300 vehicles per hour. The minimum acceptable level-of-service standard for Estero Boulevard shall be that average monthly traffic flows from 10:00 A.M. to 5:00 P.M. during each month do not exceed that level for more than four calendar months in any continuous twelve-month period. Measurements from the permanent count station at Donora Boulevard shall be used for this standard.

POLICY 7-I- 3 Figure 18 of this element is hereby adopted as the future transportation map of the Town of Fort Myers Beach.

OBJECTIVE 7-J **PROTECTING PUBLIC ACCESS — Although no future right-of-way needs have been identified, some existing town and county rights-of-way are substandard and few are wider than needed. The town shall not vacate or acquiesce in the vacation of existing rights-of-way except where no public purpose would be served by retaining the right-of-way.**

POLICY 7-J-1 **RIGHTS-OF-WAY:** Town and county rights-of-way are needed for the undergrounding of utilities; for the expansion of sidewalks and bike paths; for water accesses; for on-street parking; for public transit and road improvements; and for other public purposes. The town shall strictly limit vacations of rights-of-way and easements to preserve future access for these purposes.

POLICY 7-J-2 **TRAFFIC IMPACT ANALYSES:** A thorough traffic impact analysis is currently required only for major rezonings and very large development orders. The town shall amend its Land Development Code during 2010 ~~1999~~ to:

i. decrease the thresholds for requiring traffic impact analyses;
ii. require them to study the cumulative impacts of potential development; and
iii. use the results in assessing whether impacts are acceptable, and whether an improved design could offset some of the impacts.

Application #: 2008-10-TEXT

Description: Revise Objectives 9-E and 9-F to set realistic timetables for the completion of a stormwater master plan

Pages to be changed: Comprehensive Plan Page 9-13 (pages 9-7—9-10 and 9-13~~—9-14~~ are attached for reference)

Discussion in E/A Report (adopted on Jan 16 '07): *From Page 60—61:* "**B. Potential Funding Sources**

"A "stormwater utility" is a municipal entity that provides a specific service, like a utility that provides drinking water or sewer service. Rainwater should be treated through an organized drainage system of ditches and pipes that collects, treats, and disposes stormwater runoff. To remain effective, this has to be maintained. At Fort Myers Beach, some parts of the system still have to be designed and constructed.

"In most new developments, a homeowners' association is required to maintain whatever parts of the system are built by the original developer (such as lakes). The local government typically maintains other parts of the system, such as ditches and underground pipes that run along the public road system. When this drainage system also provides drainage for the road itself, this maintenance can be paid for with gasoline taxes.

"Unfortunately, funding for all other types of stormwater maintenance and improvements has to compete with all other needed government services. The result is often neglect. Without a properly maintained drainage system, the quality of stormwater goes down, resulting in higher levels of pollution in Estero Bay. When a proper drainage system was never installed at all, as is the case with many parts of Fort Myers Beach, pollutant levels in runoff can be very high.

"As the problems created by improper stormwater management have become better known, many communities are creating a stormwater utility, a branch of municipal government whose sole purpose is stormwater management. In smaller communities this utility is typically part of the public works department. Most often its funds usually come from a separate fee that is charged to owners of developed property, based on a share of the benefit each will receive from the utility. The base fee is often around $3-$4 per month for a typical home. A fee of this level covers stormwater planning, routine maintenance, and minor improvements to the system. The fee is frequently listed on the monthly water or sewer bill, avoiding a large annual payment at tax bill time. Larger fees can be charged to specific areas if needed to construct entirely new drainage systems.

"Fort Myers Beach is a logical candidate for a stormwater utility because there is a broad awareness of the increasing levels of pollution in the canals and in Estero Bay, accompanied by a strong sentiment towards cleaning up pollution generally. The missing link for citizens to accept a stormwater utility fee is a

full understanding of how current practices on Estero Island contribute to that pollution and what kinds of steps can be taken to improve the quality of stormwater runoff.

"A stormwater master plan, as proposed by Objective 9-F, would be needed prior to establishing a stormwater utility. The master plan essentially creates the work plan for the utility. If a utility is not ultimately established, the work plan could be carried with other funding sources such as ad valorem taxes.

"C. Recommendations: The proposed timing for a stormwater master plan in Objective 9-F is obsolete, but the master plan is still needed. Objective 9-F should be revised to set a realistic timetable for the completion of this plan."

Additional Comments: Objectives 9-E and 9-F should be modified as shown on pages 9–13 to set new target dates for completion of a stormwater master plan, which has just gotten under way. For informational purposes, the minutes from the September 12, 2008, kickoff meeting are attached.

Action by LPA: During a public hearing on November 18, 2008, the LPA unanimously recommended that the Town Council approve the changes as outlined in this report.

Action by Town Council: During a public hearing on December 15, 2008, the Town Council voted unanimously to transmit this amendment for state review.

DCA Objection: None

DCA Recommendation: None

Response to DCA: N/A

Proposed Final Action: The Town Council should adopt the transmitted amendment, as described above, as part of Ordinance 09-03.

Final Action: The Town Council adopted this amendment on August 17, 2009, as part of Ordinance 09-03.
(Text shown in red is new or has changed since the initial transmittal of this amendment in January 2009.)

Meeting Minutes

Town of Fort Myers Beach
Stormwater Master Plan
Kickoff Meeting

Location: Fort Myers Beach Council Chambers

Date and Time: September 12, 2008 at 1:30 P.M.

Purpose: Discuss with the Fort Myers Beach staff the project overview, scope of services, schedule, communications, team roles, deliverables, and identify critical success factors and Town priorities.

Attendees:

Name	Organization	Telephone
Jack Green	Town of Fort Myers Beach	(239) 765-0202
Jerry Murphy	Town of Fort Myers Beach	(239) 765-0202
Cathie Lewis	Town of Fort Myers Beach	(239) 765-0202
Mike Schmidt *	CDM	(904) 527-6735
Solomon Abel	CDM	(239) 938-9600
Marc Stonehouse	CDM	(239) 938-9600
Sonia Iszler	CDM	(239) 938-9600
Ankita Patel	CDM	(239) 938-9600

* via conference call

Handouts:

CDM provided the following items:

1. Kickoff Meeting Agenda
2. Project Schedule
3. CDM Contact List
4. List of Information Needs
5. Exhibit A – Scope of services.

Discussion:

1. Introduction

The Fort Myers Beach (FMB) and CDM staff introduced themselves. CDM relayed the agenda and purpose of the meeting.

2. Project Overview

CDM provided an overview of the project scope and schedule. In general, the FMB staff was in agreement with the scope and schedule. One exception noted by FMB staff was that one of the three problem areas, identified as the area between Carolina Street and Tropical Shores Drive, needs to be replaced with a

new problem area. This is because FMB just received a FEMA grant to start a separate stormwater planning and design project to address flooding in that area. Therefore, this area will be replaced with the Sterling Avenue intersection at Falkirk Street and Lauder Street.

As for the schedule, FMB indicated that Task Number 1.9 Storm Ordinance Review is their first priority for this project. FMB stated there are no current ordinances to prevent and control the growing trend toward increasing the amount of impervious surface on properties. The Town's Local Planning Agency (LPA) plans to develop an interim ordinance to prevent significant stormwater changes during the development of the Stormwater Master Plan (SWMP). The ordinance will be recommended to the Town Council for their review and approval. FMB will coordinate a meeting with the LPA once CDM identifies which of the two October meetings they can attend. At the meeting, CDM will present potential options and language for new stormwater ordinances based on previous studies and information from similar communities. CDM mentioned that the Atlantic Beach ordinance information previously provided to FMB is one good example of how a similar community limited the amount of impervious area allowed for each lot. CDM will also check other similar ordinances as potential examples.

CDM asked FMB staff to describe their objectives and critical success factors for the SWMP. The following were identified:

- The SWMP must provide enough information to determine the feasibility of developing a new stormwater utility should the Town decide to create one. As the Town is nearly fully built out, they cannot depend on population growth to increase the tax-base. In addition, the Town policy only allows up to a maximum of 36-months for long-term debt.
- Public input to the project will be through as-needed public workshops.
- Reports and information developed as part of the project need to be based on solid engineering. Documentation must be written so that it is understandable to the general public, especially the reasons for and benefits of improvements recommended as part of the alternatives evaluation. This includes federal and state requirements, flooding improvements needed, and water quality benefits to residents and the environment. An added challenge is that many of the residents only live on the Island during the winter months and do not see the significant flooding that occurs during the wet summer season.
- Estero Boulevard is where a majority of the flooding problems exist and there is limited space to provide stormwater improvements. Estero Boulevard is a County road so the Town has limited ability to make modifications as needed. Also, there is currently no budget in the County CIP to address traffic and stormwater issues. The Town created an ordinance that will not allow stormwater discharges to the beach by April 2008. However, there is not adequate stormwater infrastructure along Estero Boulevard to accept flows re-directed from the beach.

- The SWMP should consider "out-of-the-box" alternatives and best management practices (BMPs). The Town does not have a typical stormwater drainage and conveyance system. It has limited stormwater infrastructure, limited right-of-way (ROW), and does not own much property on the Island. The overall goal is to provide new alternatives to the Town with conveyance and storage that may allow for irrigation, potable water, and aquifer recharge uses. FMB mentioned that the Town buys its potable water from Lee County. In addition, the Town does not have a reclaimed water system. The Town has 49 catch basins with skimmer boxes (type C). Otherwise there is no other stormwater treatment. The known discharge points, inlets, swales, and pipes are included in the GIS maps already provided to CDM. However, there may be cases where the pipe connectivity is incorrectly shown, and in some cases inlets and pipes may lead to dead ends.
- FMB currently does not have a flood control level of service (LOS) goal. CDM will work with FMB staff to define alternatives to provide the desired LOS for the three problem areas and to develop conceptual BMPs for stormwater outfalls. This will include potentially different LOS goals as needed to keep roads/streets free for emergencies and preventing home/business flooding. Overall, the LOS goals need to be established at levels that can be reasonably achieved.

3. Project Team

CDM provided the following project contact list and responsibilities. The FMB project manager for this project will be Cathie Lewis. Jack Green and Jerry Murphy will support Cathie Lewis as needed.

CDM	Project Role	Phone No.	Email
Kirk Martin	Client Manager	O: (239) 938-9600 C: (239) 218-1043	martinwk@cdm.com
Solomon Abel	Project Manager	O: (239) 938-9600 C: (239) 963-5932	abelsj@cdm.com
Mike Schmidt	Technical Advisor	O: (904) 527-6735 C: (904) 519-7090	schmidtmf@cdm.com
Marc Stonehouse	Assistant Project Manager	O: (239) 938-9600 C: (734) 904-5305	stonehousemc@cdm.com
Dan Anderson	Funding	(561) 689-3336	andersondt@cdm.com
Tom Nye	System Evaluation and Modeling	(305) 372-7171	nyete@cdm.com
Jim Wittig	Technical Advisor; Alternatives Analysis	(407) 660-2552	wittigjt@cdm.com
Ankita Patel	Project Engineer	(239) 938-9600	patelad@cdm.com
Sonia Iszler	Project Engineer	(239) 938-9600	iszlerc@cdm.com

O – office phone number
C – cell phone number

4. Communication and Invoices

Cathie Lewis will be the primary project contact for CDM. Jack Green should be copied on all correspondence from CDM to FMB. Cathie Lewis and Jerry Murphy will coordinate with LPA for CDM.

It was agreed that CDM will provide a draft of any official document to FMB for internal review and comments before it is posted as an official document.

As needed, CDM will provide the Town with access to an e-room to transfer large project files through an internet connection.

CDM will submit monthly invoices with a progress report that describes the tasks accomplished during the invoice period.

5. Work Plan and Schedule

CDM provided a copy of the scope of services and briefly reviewed each task and its schedule. In general, any changes or additions to the scope of work will be communicated to and discussed with FMB as soon as they arrive. FMB requested that CDM inform them when doing field work. CDM may perform field work without FMB staff being present.

6. Action Items

The following action items were identified at this meeting:

CDM

a. CDM will identify the best person to attend an LPA meeting and let FMB know which meeting they can attend.
b. CDM will obtain and use Lee County rainfall data.

FMB

c. FMB will coordinate with the LPA to add CDM to their agenda at the meeting CDM can attend.
d. FMB will provide CDM with a list of catch basin skimmer boxes.
e. FMB will provide CDM with a list of repetitive loss properties from FEMA.
f. FMB will provide CDM with the future land use information/map.

Because of existing development on the island, there are limited options for large-scale water quality treatment facilities. There are however, numerous other options available to improve water quality including both structural and source controls which can be evaluated and potentially incorporated into redevelopment plans or master planning efforts. Other examples include:

- minimize or reduce use of lawn chemicals in swales and along a buffer bordering the canals;
- establishing oil recycling facility to reduce illegal dumping of used oil;
- establish a program to locate and eliminate other un-wanted or illicit discharges;
- discourage or prohibit discarding of lawn clippings in canals;
- institute a routine inspection/maintenance program for any remaining septic tanks;
- institute leash laws and pet clean-up requirements,
- establish limits on impervious areas and encourage permeable alternatives to impervious surfaces (e.g., wood decks instead of concrete patios etc.);
- encourage the use of slow-release fertilizers;
- encourage natural lawn care instead of chemical control;
- sand filters / enhanced sand filters (similar in function to infiltration trenches, but shallower and with greater surface area).

The advantages and disadvantages of various structural controls are summarized in Table 9-1. (The cross-section diagrams in this element were taken from the same source as Table 9-1 or from *Controlling Urban Runoff: A Practical Manual for Planning and Designing Urban BMPs*, Metropolitan Washington Council of Governments, 1987.)

DESIRABLE COURSES OF ACTION

One task which should be completed by the Town of Fort Myers Beach in the near future is mapping the existing drainage facilities within the town. The mapping should include a description of relic systems (for example, filled swales) that are no longer structurally intact or functioning. The cost of this effort could be reduced greatly with the assistance of knowledgeable volunteers to locate and map the structures and facilities. Professional surveyors would then determine the exact height and capacity of the system.

From the data gathered, an evaluation of the stormwater system's response to a design storm (either SFWMD or a locally derived standard) should be completed under existing conditions and under conditions of a fully maintained and operational system. Depending on the results, a limited-area stormwater master plan should be considered to evaluate options available to achieve the desired level of service for stormwater.

Through the master planning process, the feasibility of drainage options can be evaluated, and the potential for increasing groundwater recharge can be evaluated. For example, it may be that increasing pipe size will have little or no effect because there is insufficient slope in certain areas, and pumps may be the only alternative for improvements.

The stormwater planning process could be phased to priority areas of the island since such an effort is expensive. A complete master plan for the northern third of the island alone might cost $100,000 to $200,000.

Planning for water quality improvements is cost-effectively completed at the same time as the master planning process, although many aspects of source control can be implemented in the absence of the master plan. For example, street sweeping, minimizing herbicide/pesticide use near canals, and establish-

Table 9-1
Comparison of Stormwater Best Management Practices

URBAN BMP OPTIONS	Reliability for Pollutant Removal	Longevity*	Applicability to Most Developments	Regional Concerns	Environmental Concerns	Comparative Costs	Special Considerations
Extended Dry Detention Ponds	Moderate, but not always reliable	20+ years, but frequent clogging and short detention common	Widely applicable	Very few	Possible stream warming and habitat destruction	Lowest cost alternative in size range.	Recommended with design improvements and with the use of micropools and wet-
Wet Detention Ponds	Moderate to High	20+ years	Widely applicable	Arid and high ET regions	Possible stream warming, trophic shifts, habitat de-struction, safety	Moderate to high com-pared to conventional stormwater detention	Recommended, with careful site evaluation
Stormwater Wetlands	Moderate to High	20+ years	Space may be limiting	Arid and high ET regions; short growing season	Stream warming, natural wetland alteration	Marginally higher than wet ponds	Recommended
Multiple Pond Systems	Moderate to High; Redundancy increases reliability	20+ years	Many pond options	Arid regions	Selection of appropriate pond option minimizes overall environmental	Most expensive pond option	Recommended
Infiltration Trenches	Presumed moderate	50% failure rate in 5 years	Highly restricted (soils, groundwater, slope, area, sediment input)	Arid and cold regions; sole-source aquifers	Slight risk of groundwater contamination.	Cost-effective on smaller. Rehab costs can be considerable.	Recommended with pretreatment and geotechnical evaluation.
Infiltration Basins	Presumed moderate if working	60-100% failure in 5 years	Highly restricted (see infiltration trench)	Arid and cold regions; sole-source aquifers	Slight risk of groundwater contamination.	Construction cost moderate, but rehab costs high.	Not widely recom-mended until longevity is improved.
Porous Pavement	High (if working)	75% failure in 5 years	Extremely restricted (traffic, soils, groundwater, slope, area,	Cold climate; wind erosion; sole--source aquifers.	Possible ground water impacts; uncontrolled runoff.	Cost-effective compared to conventional asphalt when working properly	Recommended in highly restricted applications with careful construction and effective
Sand Filters	Moderate to High	20+ years	Applicable (for smaller developments)	Few restrictions	Minor.	Comparatively high construction costs and frequent maintenance.	Recommended, with local demonstration
Grassed Swales	Low to Moderate, but unreliable	20+ years	Low density development and roads	Arid and cold regions	Minor.	Low compared to curb and gutter.	Recommended, with checkdams, as one element of a BMP
Vegetated Filter Strips	Unreliable in Urban Setting	Unknown, but may be limited	Restricted to low density areas	Arid and cold regions	Minor.	Low.	Recommended as one element of a BMP system.
Water Quality Inlets	Presumed low	20+ years	small (<2 acres), highly impervious catchments	Few	Resuspension of hydrocarbon loadings. Disposal of hydrocarbon and toxic	High, compared to trenches and sand filters.	Not currently recom-mended as a primary BMP option.

* Based on current designs and prevailing maintenance practices.
Source: *A Current Assessment of Urban Best Management Practices, Techniques for Reducing Non-Point Source Pollution in the Coastal Zone*. Metropolitan Washington Council of Governments, 1992.

ing a recycling facility on the island do not impact drainage and can be done independently of a drainage master plan. However, if water quality inlets are used as a means to improve stormwater quality, the flow catchment areas must be incorporated into the placement of the inlets. In most cases, this will be more easily evaluated during a master planning process. As in the case of the drainage goals, all water quality goals should acknowledge the existing constraints to large-scale or regional solutions.

The town should begin to develop a strategy for water quality monitoring in accordance with the commitments made in the NPDES Part 2 application. Although most NPDES requirements should be met through joint programs with Lee County, the town could address its special problems by testing the metal content in canal bottom sediments. This is a cost-effective way to screen for pollutant sources, particularly contaminated urban runoff. The monitoring program would also incorporate visual inspections of exposed outfalls during dry weather when flow is not anticipated. Inexpensive field test kits can be used to assess whether the unexpected flow (if found) is likely to be a wastewater or commercial/industrial source. The results, when coupled with the drainage facilities mapping, can be used to isolate potential sources. Periodic re-testing should be considered (e.g., 3-5 years). A history of sediment results could be used to assess the success of other water quality management strategies.

Grant funds are often available for innovative projects to improve stormwater quality. The town has begun to seek funding for retrofit projects such as installing porous paving in parking lots that are being redeveloped. A request for a $120,000 federal grant is pending before the South Florida Ecosystem Restoration Task Force. Such grants often require a 50% match; this match could be satisfied by the town's stormwater mapping or water quality monitoring programs as described above, or might be met by those initiating the redevelopment activity, or might be met by receiving credit for the previous replacement of asphalt by pervious pavement at Times Square.

Some drainage problems can be addressed through regulatory means. For instance, swimming pools are sometimes emptied directly onto the beach. This can damage sea turtle nests (violating Chapter 370.12, *F.S.*) or cause serious erosion, and may even violate a general prohibition against the discharge of toxic substances contained in Chapter 17-302.500 of the *Florida Administrative Code* because of high levels of chlorine and other chemicals in pool water. At the federal level, the discharge of swimming pool water is recognized as a potential problem in the NPDES permitting process; the presence of chlorine in a stormwater discharge is considered an indicator of an "illicit connection" to the drainage system.

If environmental agencies will not require such discharges to be eliminated, the town could do so itself by ordinance. In those locations where roadside swales have the capacity to accept swimming pool water, it could be discharged there instead of onto the beach. Alternatively, it could be discharged directly into the sewer system, which has ample treatment capacity (although some limits might be required during the peak season).

Funding for master planning, capital improvement projects, or maintenance of existing stormwater facilities can be from general revenue, or gas taxes in some cases, or through a dedicated source such as a stormwater utility as discussed in the next section.

STORMWATER UTILITY

The establishment of the new town government provides certain opportunities that are available to all independent municipalities. One such entity that the town may create is called a "stormwater utility," which provides a specific service, in some ways like a utility that provides drinking water or sewer service. Most of the

rain that falls should be treated through an organized drainage system of ditches and pipes that collects, treats, and disposes stormwater runoff. To remain effective, this stormwater system has to be maintained by someone.

In most new developments, a homeowners' association is required to maintain whatever parts of the system are built by the original developer (such as the lakes or shallow "detention" areas). The local government typically maintains other parts of the system, such as ditches and underground pipes that run along the public road system.

When this drainage system also provides drainage for the road itself, this maintenance can be paid for with gasoline taxes. Unfortunately, funding for all other types of stormwater maintenance and improvements has to compete with all other needed government services. The unfortunate result is often neglect. Without a properly maintained drainage system, the quality of stormwater goes down, resulting in higher levels of pollution in the "receiving waters" such as Estero Bay. When a proper drainage system was never installed at all, as is the case with many parts of Fort Myers Beach, pollutant levels in runoff can be very high. Many communities allow such conditions to continue, either through lack of knowledge or a shortage of funds to analyze and improve their situation.

As the problems created by improper stormwater management have become better known, many communities are creating a stormwater utility, a branch of city or county government whose sole purpose is stormwater management. Its funds usually come from a separate fee that is charged to owners of developed property, based on a share of the benefit each will receive from the utility. These fees cannot be used for any other purposes. The base fee is often around $3 per month for a typical home. A fee of this level covers stormwater planning, routine maintenance, and minor improvements to the system. The fee is frequently listed on the water and sewer bill (which is obviously more difficult at Fort Myers Beach since the town doesn't bill for either service).

Monthly billing avoids a large annual payment at tax bill time, and ensures the prompt and regular payments that the public gives to utility companies as a result of their blunt enforcement method—the service shut-off. (Other enforcement methods such as liens can also be used, but their administrative costs are very high relative to the small billing amount.)

The decision to create a stormwater utility can be made at any time, but most often just after certain events have taken place. These include the community accepting that all water pollution cannot be blamed on outsiders, and beginning to understand the nature of their own sources of pollution and the range of potential solutions. Fort Myers Beach is a logical candidate for a stormwater utility because there is a broad awareness of the increasing levels of pollution in the canals and in Estero Bay, along with a strong sentiment towards cleaning up pollution generally. The missing link for citizens to accept a stormwater utility fee is a full understanding of how current practices on Estero Island are contributing to a share of that pollution and what kinds of steps can be taken to improve the quality of stormwater runoff.

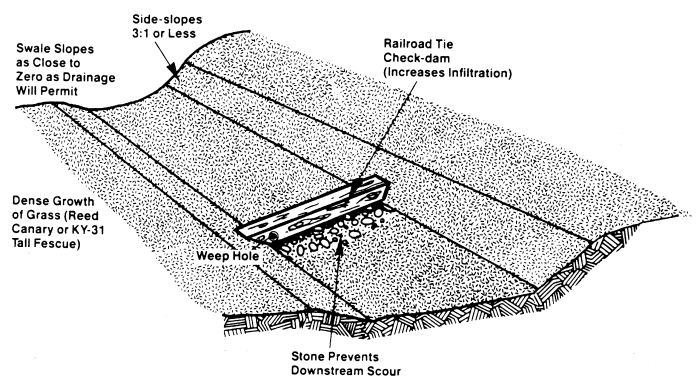


***Figure 4**, Enhanced grassed swale*

place and available to serve the development at the time of issuance of a certificate of occupancy through an enforceable development agreement pursuant to Section 163.3220, *Florida Statutes*, or through an agreement or development order pursuant to Chapter 380, *Florida Statutes*.

POLICY 9-D- 1 Identify by 1999 any emergency shelters and portions of evacuation routes subject to flooding during coastal flooding of 4.0, 5.0, and 6.0 feet above mean sea level.

POLICY 9-D- 2 Identify options to improve flood-prone emergency shelters and evacuation routes, including but not limited to:

i. raising the elevation of low-lying roads;
ii. berming/diking/elevating shelter facilities; and
iii. installing flap-valves on stormwater discharges where appropriate.

POLICY 9-D- 3 The quality of water to be discharged from new surface water management systems is and shall remain subject to state and regional permitting programs that determine compliance with state water quality standards. Stormwater management systems in new private and public developments (excluding improvements to existing roads) shall be designed to SFWMD standards (to detain or retain excess stormwater to match the predevelopment discharge rate for the 25-year, 3-day storm). Stormwater discharges from development must meet relevant water quality and surface water management standards as set forth in Chapters 17-3, 17-40, and 17-302, and rule 40E-4, *F.A.C.* New developments shall be designed to avoid increased flooding of surrounding areas.

OBJECTIVE 9-E PRELIMINARY DRAINAGE STUDY — Identify by 2009 ~~1999~~ all existing drainage facilities and poorly drained areas.

POLICY 9-E-1 Undertake a thorough effort to map all existing drainage facilities, including modern stormwater management systems, roadside swales, and remnants of systems that may no longer function. Use citizen volunteers to reduce the cost of this effort.

POLICY 9-E-2 Identify significant existing drainage problem areas through logs of citizen complaints and a public outreach effort.

POLICY 9-E-3 Identify any existing facilities that need immediate repair or replacement.

POLICY 9-E-4 Identify any partially submerged stormwater outfalls that could be retrofitted with grates to prevent manatees from entering the drainage system.

OBJECTIVE 9-F STORMWATER MASTER PLAN — Evaluate by 2010 ~~2000~~ the need to improve public stormwater management facilities.

POLICY 9-F-1 This evaluation shall determine the nature of potential improvements to the existing stormwater system to improve drainage and to reduce the level of contaminants running off into tidal waters.

POLICY 9-F-2 This evaluation shall include studies and/or models as needed to determine the capacity of existing facilities if they were fully maintained.

Application #: 2008-11/12-TEXT

Description: Revise Policy 8-C-6 to delete references to the Public Service Commission and Florida Cities Water Company; update the text of the Utilities Element to reflect the town's acquisition of the potable water distribution system from Florida Cities; modify the Utilities Element to reflect the latest ten-year water supply plan; and make corresponding policy changes to the Conservation, Intergovernmental Coordination, and Capital Improvements Elements

Pages to be changed: Comprehensive Plan Pages 8-1—8-6 and Pages 8-15—16 (Utilities Element), Page 6-47 (Conservation Element), Page 11-24 (Capital Improvements Element), and Page 14-24 (Intergovernmental Coordination Element). Proposed changes are attached.

Discussion in E/A Report (adopted on Jan 16 '07): *From Page 62:* "A. Town's Purchase of the Water Distribution System.

"Until 1999, drinking water was provided to customers in the town by Florida Cities Water Company, a private company regulated by the Florida Public Service Commission, as discussed in detail in the Utilities Element.

"When Florida Cities decided to sell, Lee County and the town each acquired portions of this utility. The town formed the nonprofit corporation "Town of Fort Myers Beach Public Works Services," commonly known as Beach Water, to operate the water distribution service within town limits. Lee County acquired the remainder of the utility and now operates the water distribution service in unincorporated Lee County and produces treated water for its own customers and for all Beach Water customers.

"Florida Cities was not available for purchase when the comprehensive plan was being prepared. Its availability was a one-time opportunity that the Town Council chose to pursue. The town's operation of this utility has uncovered many problems that the Town Council is now addressing, however, those problems do not require changes to the comprehensive plan in order to resolve them. The Utilities Element should be updated to reflect these recent events. Changes required would include:

- Updating of the text to explain the acquisition of the distribution system from Florida Cities.
- Revising Policy 8-C-6 to delete references to the Public Service Commission and Florida Cities."

2002 LEGISLATION *[from pages 62–63]*:

"In 2002 the Legislature expanded the state comprehensive planning requirements to require greater coordination with water supply planning. New requirements included:

- Each local government must consider the adopted water supply plan prepared by the South

Florida Water Management District.

- Each local government with responsibility for building water supply facilities must amend its Utilities Element to provide a ten-year work plan for building water supply facilities needed to serve existing and new development.

"Lee County prepared the required water supply facilities work plan in 2003,11 in compliance with the first requirement. This work plan was based on the April 2000 regional water supply plan known as the Lower West Coast Water Supply Plan.

"Beach Water does not build or operate water supply facilities as it has an agreement to purchase treated drinking water in bulk from Lee County Utilities; thus the second requirement does not apply to the town.

"However, state and regional officials still expect Fort Myers Beach to include in its Utilities Element a work plan identifying water supply facilities within the town that are needed to serve existing and new development and which reflect projected changes in water demand. This work plan must be detailed for the first five years; it can be more general for the second five years. Since no new facilities are needed within the town, the Utilities Element could simply be amended to recognize the county's work plan and state this conclusion (if deemed necessary by state officials)."

2005 LEGISLATION *[from page 63]*

"In 2005 the legislature made further amendments to the statutes governing water supply planning. Within eighteen months after the next updates are made to regional water supply plans, new ten-year work plans must be prepared by local governments and included in their comprehensive plans. Workshops are currently being held around the state to discuss the implications of these new requirements.

"Workshops are also in progress for the latest update to the Lower West Coast Water Supply Plan, which is expected to be completed in July 2006. Once that plan is adopted, Lee County will update its ten-year work plan. If any further amendments to the Fort Myers Beach Comprehensive Plan are required, they will be made at that time."

Additional Comments: As summarized above, legislation in 2002, 2004, and 2005 provided new planning standards for drinking water supply. Certain amendments are needed to the town's Comprehensive Plan, including water supply concurrency and inclusion of a 10-year plan to ensure an adequate supply of drinking water.

The town operates the water distribution system but does not have its own water supply; all water is purchased in bulk from Lee County Utilities. Despite the town's lack of involvement in water supply matters, state law still requires the town to comply with these new planning standards. Lee County completed its latest "Water Supply Facilities Work Plan" on July 2008, in compliance with the most recent

regional water supply plan, the Lower West Coast adopted by SFWMD on July 12, 2006. Fort Myers Beach will rely on Lee County's plans for ensuring adequate water supply.

Potential amendments to the Utilities Element to meet these new requirements include four separate components:

(1) Additional Water Supply That Will Be Needed To Accommodate Growth

To meet this requirement, Table 8.3 and the paragraph that follows on Page 8–4 have been rewritten.

(2) Incorporation of Lee County Utilities' Water Supply Plan

New statutory language requires this element to:

(a) *Identify traditional water supply sources and "alternative water supply project or projects" selected by local governments from those identified by the regional water supply plan. [163.3177(6)(c)]*

To meet this requirement, new text has been written to replace "Performance of Existing Facilities" on Pages 8–5 and 8–6.

(b) *Include a work plan for building new water supply facilities that looks forward at least 10 years. [163.3177(6)(c)] Capital improvements should be included on the five-year schedule if they will be needed to achieve and maintain the adopted level of service.*

To meet this requirement, new text has been written to replace "Expansion Needs" on Page 8–6, including a table that describes water supply development projects proposed by Lee County Utilities to meet demand over the next ten years. Policy 8-A-4 is also being added to the plan.

(c) *Identify conservation and reuse measures to meet local water needs. [163.3177(6)(c)]*

To meet this requirement, new text has been written to update the water conservation text on Pages 8-5 and 8-6. Policy 8-A-5 is being added and Policy 8-C-6 is being amended.

(3) Water Supply Concurrency

Statutory language was added by the 2005 legislation to require that local governments must consult with their water supplier before approving building permits to determine whether adequate water supplies will be available. *[163.3180(2)(a)]*

Also, "adequate water supplies" are now included in the list of public services that must meet the concurrency test ("...facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy...").

The existing level-of-service standard for potable water found in the Fort Myers Beach Comprehensive Plan already meets this second new requirement:

"...for potable water service: **available supply**, treatment, and delivery capacity of 260 gallons per day per equivalent residential connection (ERC), and delivery of potable water at a minimum pressure of 20 pounds per square inch (psi)..." *[Policy 8-B-1-i]*

However, the implementing language for this standard, which is found in § 2-48(a)(1) of the Land Development Code, only requires the measurement of the capacity of the water treatment facility, not the sources of raw water. Therefore, two new policies should be added to the Utilities Element so that it will fully comply with current legislation, both as to advance consultation with water suppliers and as to available water supply capacity. These new policies are included below as 8-B-3 and 8-B-4.

(4) Consistency with Other Elements of Comprehensive Plan

To maintain consistency among elements of the Comprehensive Plan, the following additional changes should be transmitted to DCA along with the changes to the Utilities Element:

(a) Proposed Changes to the Conservation Element:

Current and Projected Water Needs and Sources *[update of text on Page 6-35 of the Conservation Element]*

In 1996 there were 7,710 ~~about 7,892~~ dwelling units within the town. The Future Land Use Element forecasts total housing units to increase to ~~8,318 by the year 2003 and 8,740~~ 8,738 at build-out at some time before the year 2020. ~~Additional water demand by 2003 will be approximately 110,760 gallons per day using a 260-gallons-per-day standard. At buildout, the remaining 422~~ From 2008 through build-out, an additional 175 dwelling units will require an additional 45,500 ~~109,720~~ gallons per day of potable water. These additional demands are a minute portion (0.1%) of the supply increases being planned by Lee County Utilities by 2030 (source: Lee County's Water Supply Facilities Work Plan, as updated in July 2008). ~~available capacity of Florida Cities (12,000,000 gallons available minus 6,734,000 gallons used during the busiest period).~~ For full details, see the Utilities Element.

POLICY 6-I-3 The town will continue to purchase bulk water from Lee County Utilities in lieu of providing an independent supply of potable water. Lee County Utilities considers the Town of Fort Myers Beach to be part of its potable water service area and has demonstrated its ability to expand raw water supply and treatment facilities to meet anticipated growth consistent with the 2005–2006 Lower West Coast Water Supply Plan Update (prepared by the South Florida Water Management District).

(b) Proposed Addition to the Capital Improvements Element:

POLICY 11-A-7 Table 11-7 of this element presents the five-year schedule of capital improvements to be undertaken by the Town of Fort Myers Beach. This schedule will be updated each year through an amendment to this plan to correspond with revisions to the capital improvements program made by the town during its annual budget process.

i. To comply with § 163.3180(13)(d), *F.S.*, the required five-year schedule of capital improvements also includes the capacity-enhancing school improvements and summary of estimated revenues as presented by the Lee County School District through its Five-Year District Facilities Work Program, as updated each September. For FY 2008/09 through 2012/13, the specific capacity-enhancing school improvements are listed in Table 16-7 of the Public Schools Element and the formal demonstration that those improvements meet all requirements of state law is set forth in that element.

ii. To comply with § 163.3177(3)(a)5, *F.S.*, any capital improvements that Lee County Utilities needs to construct to achieve or maintain the potable water level of service in this plan during the next five years will be included in the town's five-year schedule of capital improvements.

(c) Proposed Changes to the Intergovernmental Coordination Element:

POLICY 14-A-5 The town will coordinate with Lee County and the South Florida Water Management District to insure that this Comprehensive Plan remains consistent with Lee County's Water Supply Facilities Work Plan (last updated in July 2008) and SFWMD's 2005–2006 Lower West Coast Water Supply Plan Update (approved on July 12, 2006). The town commits to updating this Comprehensive Plan in accorance with statutory timeframes, which in 2009 required this update within 18 months after SFWMD updates or amends its 2006 Lower West Coast Water Supply Plan Update.

Action by LPA: During a public hearing on November 18, 2008, the LPA unanimously recommended that the Town Council approve the changes as outlined in this report, which combine the results of what was originally proposed as two separate amendments, 2008-11-TEXT and 2008-12-TEXT.

Action by Town Council: During a public hearing on December 15, 2008, the Town Council voted unanimously to transmit this combined amendment for state review.

DCA Objection C-10-a: *"Proposed Utilities Element Policy 8-B-3 states that prior to issuance of building permits, the Town must obtain assurances from Lee County Utilities that an adequate bulk water supply will be available to the Towns' water distribution system to serve new development at the rates specified in Policy 8-B-1.*

"The proposed Utilities Element Policy 8-B-3 does not establish concurrency management system requirements for water supply consistent with the requirements of Section 163.3180(2)(a), F.S., that prior to the approval of a building permit or its functional equivalent, the local government shall consult with the applicable water supplier to determine whether adequate water supplies to serve new development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy or its functional equivalent."

DCA Recommendation: *"Revise Utilities Element Policy 8-B-3 to establish concurrency management system requirements for water supply consistent with the requirements of Section 163.3180(2)(a), F.S."*

Response to DCA: *DCA alleges that Policy 8-B-3 does not meet statutory requirements but does not identify any specific deficiency or recommend any particular type of remedy.*

One possibility is that DCA is recommending that Policy 8-B-3 be reworded slightly to become a word-for-word restatement of the generalized language in the Florida Statutes.

Here are the significant differences between Policy 8-B-3 and the statutory language::

- *Policy 8-B-3 states "prior to issuance of building permits" instead of "prior to the approval of a building permit or its functional equivalent"*
- *Policy 8-B-3 substitutes "Lee County Utilities" for "applicable water supplier."*
- *Policy 8-B-3 substitutes "adequate bulk water supply...at the rates specified in Policy 8-B-1" for "adequate water supplies."*

The current wording of Policy 8-B-3 is clear and concise; it allows only a single interpretation. DCA's recommended rewording would make it longer and vaguer, and would leave a determination of its actual meaning to some unspecified later time, Therefore the town should decline to modify Policy 8-B-3 in this way.

Another possibility is that DCA disapproves of this new requirement being placed in a separate policy instead of with the other concurrency requirements for potable water, which are found in Policy 8-B-1(i). The legal effect would seem to be identical, but to avoid any dispute over this minor questions, Policy 8-B-1 should be amended as follows to

incorporate the wording previously proposed for Policy 8-B-3:

POLICY 8-B-1: *The minimum acceptable level of service standards for utility services within the Town of Fort Myers Beach shall be:*

i. for potable water service:

(a) Available supply, treatment, and delivery capacity of 260 gallons per day per equivalent residential connection (ERC), and delivery of potable water at a minimum pressure of 20 pounds per square inch (psi) at the meter anywhere in the system.

(b) Prior to issuance of building permits, the town must obtain assurances from Lee County Utilities that an adequate bulk water supply will be available to the town's water distribution system to serve new development at these same rates.

ii. for sanitary sewer service: available capacity to collect, treat, and dispose of wastewater of 175 gallons per day per equivalent residential connection (ERC).

iii. for solid waste disposal service: the ability to collect and manage 7 pounds of municipal solid waste per person per day.

An ERC is defined as the total number of meter equivalents using the methodology of the Florida Public Service Commission (and is synonymous with their use of the term "equivalent residential units"). ERCs are used to convert commercial and industrial water or sanitary sewer use into standard units that are based on typical rates of use in dwelling units.

DCA Objection C-10-b: *"The data and analysis does not quantify the projected water supplies in the Town's proposed Work Plan by providing details from the Bulk Water Agreement with Lee County' Utilities covering water demands, agreement timelines, and level of service."*

DCA Recommendation: *"Revise the data and analysis to quantify the projected water supplies in the Town's proposed Work Plan by providing details from the Bulk Water Agreement with Lee County Utilities covering water demands, agreement timelines, and level of service."*

Response to DCA: The requested data and analysis is now summarized on Page 8-5 of the Utilities Element.

DCA Objection C-10-c: *"The proposed plan amendment does not include plan policy language that adopts by reference the adopted Lee County Work Plan."*

DCA Recommendation: *"Revise the amendment to adopt plan policies that address the following: (1) adopt the Lee County Work Plan by reference."*

Response to DCA: A new Policy 8-A-4 should be added to this element to comply with this recommendation:

POLICY 8-A-4: The town's potable water supply distribution system is supplied by Lee County Utilities under terms set forth in a bulk water agreement approved in August 2001. Lee County Utilities has a long-term expansion plan that details existing and proposed uses of traditional and alternative water supply sources, in accordance with SFWMD's Lower West Coast Water Supply Plan Update (July 2006). Lee County Utilities' expansion plan, the Water Supply Facilities Work Plan, was last updated in July 2008 and is incorporated herein by reference.

DCA Objection C-10-d: *"The proposed amendment does not include plan policies addressing on-going coordination with Lee County to ensure that water supplies will be sufficient to meet water demand, including coordinating peak seasonal demands and allocations based on consistent population projections and level of service standards, and to provide coordination with Lee County on water conservation that includes implementation plans for a conservation rate structure and a leak detection program for the Town."*

DCA Recommendation: *"Revise the amendment to adopt plan policies that address the following: (2) address ongoing coordination with Lee County to ensure that water supplies will be sufficient to meet water demand, including coordinating peak seasonal demands and allocations based on consistent population projections and level of service standards, and to provide coordination with Lee County on water conservation that includes implementation plans for a conservation rate structure and a leak detection program for the Town."*

Response to DCA: A new Policy 8-A-5 should be added to this element to comply with this recommendation:

POLICY 8-A-5: The town shares a common interest with Lee County government in ensuring that potable water supplies will be sufficient to meet future demands. The town will coordinate with Lee County on an ongoing basis on the following matters:

1. Analyzing peak season demands and providing sufficient allocations of water.
2. Using consistent population projections and level-of-service standards.
3. Conserving water by adopting a conservation rate structure (see Policy 8-C-6).
4. Implementing a leak detection program and replacing obsolete portions of the water supply system.

DCA Objection C-10-e: *"Policy 14-A-5 does not ensure that the future Water Supply Facilities Work Plan amendments will be adopted within 18 months after updates or amendments to the Lower West Coast Water Supply Plan Update are adopted by the District."*

DCA Recommendation: *"Revise Policy 14-A-5 to ensure that the future Water Supply Facilities Work Plan amendments will be adopted within 18 months after updates or amendments to the Lower West Coast Water Supply Plan Update are adopted by the District."*

Response to DCA: An additional sentence has been added to proposed Policy 14-A-5 to comply with this recommendation:

> **POLICY 14-A-5:** The town will coordinate with Lee County and the South Florida Water Management District to insure that this Comprehensive Plan remains consistent with Lee County's Water Supply Facilities Work Plan (last updated in July 2008) and SFWMD's 2005–2006 Lower West Coast Water Supply Plan Update (approved on July 12, 2006). The town commits to updating this Comprehensive Plan in accorance with statutory timeframes, which in 2009 required this update within 18 months after SFWMD updates or amends its 2006 Lower West Coast Water Supply Plan Update.

Proposed Final Action: The Town Council should adopt this revised amendment, as described above, as part of Ordinance 09-03.

Final Action: The Town Council adopted this amendment on August 17, 2009, as part of Ordinance 09-03.
(Text shown in red is new or has changed since the initial transmittal of this amendment in January 2009.)

UTILITIES ELEMENT

INTRODUCTION

The Town of Fort Myers Beach is a retail provider of drinking water but does not provide other direct utility services. ~~The~~ Three major utility services are provided by others:

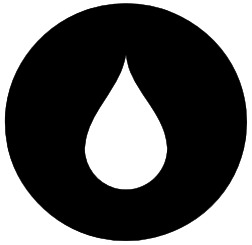
- ***Bulk water ~~supply~~*** ~~by Florida Cities Water Company, an investor-owned company regulated by the Florida Public Service Commission;~~ is provided by Lee County Utilities, a branch of Lee County government;
- ***Sewer service*** is provided directly to town residents and businesses by Lee County Utilities~~, a branch of Lee County government~~; and
- ***Solid waste,*** with pickup by ~~Kimmins Recycling, an~~ investor-owned company~~y~~ies operating under a franchise from the Lee County government. Lee County also handles the ultimate disposal of trash from its various contracted trash haulers.

This comprehensive plan examines each of these services and assesses future expansion needs to accommodate growth. This plan also establishes "minimum levels of service" that must be met at all times in order for growth to continue.

Even though some of these services are actually provided by others, the town must ensure that proper provisions are being made for continued high-quality service into the future. The town may also wish to play a greater role in utilities in the future, for example by directly franchising its trash hauler rather than being included in one of Lee County's larger contracts. Other alternatives for the town are discussed in this element.

PURPOSE OF THIS ELEMENT

The Utilities Element analyzes the availability of public facilities to meet the existing and future needs of the town. This analysis of potable water, sanitary sewer, and solid waste disposal service is mandated by Florida's growth management legislation. Rule 9J-5.001 of the *Florida Administrative Code* requires that water, sewer, and solid waste services be provided in accordance with future land use projections, and it identifies a basic framework for inventories of existing infrastructure and services. It also provides the basis for the goals, objectives, and policies to be adopted in this comprehensive plan.



If proper water, sewer, and solid waste facilities are not available, the timing and location of development can be affected, as occurred during sewer moratoriums at Fort Myers Beach in the 1980s. Planning for these services is an integral part of any comprehensive plan.

WATER SUPPLY

Florida Cities Water Company, a private company, provide~~s~~d potable (drinking) water to the Town of Fort Myers Beach and surrounding areas until 2001, when the company was acquired by Lee County Utilities, a branch of Lee County government. Lee County then resold the water distribution system on Estero Island to the Town of Fort Myers Beach. ~~Florida Cities is regulated by the Florida Public Service Commission (PSC), as are most investor-owned (for-profit) water and sewer utilities throughout the state. The PSC is responsible for ensuring adequate service and fair rates for customers.~~

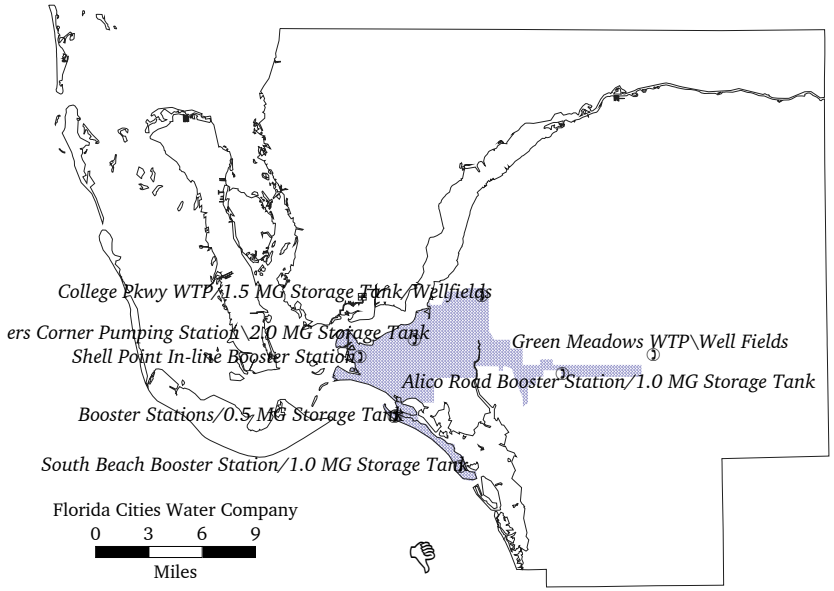


Figure 1, Former Florida Cities' south franchise boundaries & location of facilities

~~Florida Cities has been certified by the PSC to be the area's sole water provider.~~ Figure 1 identifies the former Florida Cities' South Fort Myers certificated potable water supply area, which includes~~d~~ the Town of Fort Myers Beach and nearby portions of mainland Lee County.

Lee County Utilities in 2001 acquired Florida Cities' ~~operates~~ two water treatment plants in the South Fort Myers area, ~~and has~~ which had supplied the following data about their operation. The Green Meadows Water Treatment Plant and College Parkway Treatment Plan, and their accompanying well fields, served this area. These plants had ~~have~~ permitted and plant design capacities of 9,000,000 gallons per day (Green Meadows) and 1,500,000 gallons per day (College Parkway). These plants served approximately 16,000 water customers and an estimated population of about 56,000 (at an average of 3½ persons per connection). Land uses served are primarily residential and some commercial. Florida Cities estimated~~s~~ that 3,000 of these customers and 10,500 of the population were ~~are~~ located within the town's limits. (The number of customers is less than the total number of dwelling units because a majority of dwellings within the town are multi-family units, which share a water meter and are considered as "one customer.")

Florida Cities had ~~has~~ a number of other facilities that served this area. These include:

- South Beach booster station and 1,000,000-gallon ground storage tank;
- North Beach booster station and 500,000-gallon ground storage tank;
- Marina in-line booster station;
- Miners Corner pumping station and 2,000,000-gallon ground storage tank; and
- Alico Road booster station and 1,000,000-gallon ground storage tank.

These facilities are also delineated on Figure 1. Figure 2 displays the potable water lines within the Town of Fort Myers Beach, indicating that potable water service is available throughout the town.

The average annual daily water demand within the South Fort Myers area averaged 5,757,000 gallons per day in 1997. The peak monthly demand was 7,306,000 gallons per day in 1997; the peak daily demand was 7,781,000 gallons on March 23, 1997.

Florida Cities did ~~does~~ not have a meter at Matanzas Pass that measured~~s~~ total water consumption in the Town of Fort Myers Beach. In place of this data, a "proportional capacity" can be calculated to estimate the percentage of actual water consumption and of water treatment capacity used by the town, relative to the entire ~~Florida Cities'~~ service area on the mainland. This capacity is based on the peak number of customers within each location, compared to the peak month's average daily water demand and the total design capacity of the treatment

plant. These figures are shown in Table 8-1. (Proportional capacity figures can be somewhat misleading since demand may be greater in one location one day and less on another day.)

The "level of service" *currently being provided* can be estimated using various methods. Residential levels of service are expressed here in "gallons per person per day." This calculation uses the peak month's average daily demand, which is then divided by the estimated peak population for the entire ~~Florida Cities~~ service area, yielding a figure of about 130 gallons per person per day, as shown in Table 8-2. (Note that this calculation does not apportion water consumption to commercial or industrial uses.) This computation is based on the entire service area rather than just the town because the actual peak population of the town greatly exceeds the population estimates used by Florida Cities.

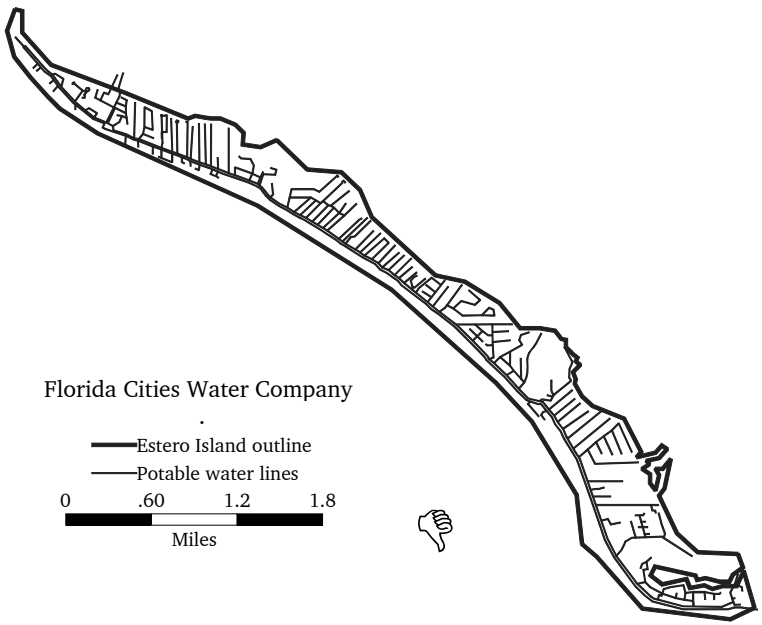


Figure 2, ~~Florida Cities'~~ Potable water lines on Estero Island

Table 8-1 — Proportionate Capacity of Potable Water Treatment Facilities, 1995/96

Customers/ Water Consumption	*Town of Fort Myers Beach*	*Remainder of Lee County certificated area*
Approximate number of customers	3,000	13,000
Estimated peak population served	10,500	45,500
Estimated share of consumption using peak month water demand (gpd)	1,369,875	5,936,125
Estimated share of total plant design capacity (gpd)	1,968,750	8,531,250

Source: Population and total gpd figures from Florida Cities Water Company

Table 8-2
Current Levels of Service for Potable Water

Peak Month Average Daily Water Demand (gpd):	*Estimated Peak Population Served:*	*Gallons Per Person Per Day:*
7,306,000	56,000	130.46

Existing and Projected Water Facility Needs

Florida Cities used~~s~~ fixed gallon-per-day rates when designing its facilities. Single-family dwelling units are assumed to use up to 300 gallons per day, which constitutes one equivalent residential connection (ERC), and 240 gallons per day for multifamily units. Those standards have also been established in the Lee County Comprehensive Plan which has jurisdiction until the town's own plan is adopted. Lee County also established minimum standards for mobile homes and recreational vehicles at 187.5 and 150 gallons per day respectively. The state has established a minimum water pressure standard of 20 pounds per square inch. ~~Florida Cities maintains~~ An average pressure of 55 to 60 pound per square

inch is maintained throughout the ~~its~~ Fort Myers Beach distribution system.

For comprehensive planning purposes, the Town of Fort Myers Beach need not adopt these same standards. However, it would be best to use a standard based on dwelling units rather than people, since new housing is approved one dwelling unit at a time. By further defining this standard on an "ERC" basis, it can also be applied to new commercial development, which at Fort Myers Beach usually does not depend primarily on island residents for its customers. A simple and uniform standard would be 260 gallons per ERC (based on 130 gallons per person per day, times 2 people per typical unit). Since no further mobile home or recreational vehicle developments are expected, separate standards are not needed for them.

The 1990 U.S. Census reported 7,420 dwelling units within the town's limits in April of that year. An additional 472 units were later ~~have been~~ constructed ~~since that time,~~ for a 1996 total of 7,710. As noted in the Future Land Use Element, housing units are forecasted to increase to ~~8,121 by the year 2003 and to~~ 8,738 at buildout before the year 2020. ~~Assuming this growth of 411 dwelling units by the end of the first five-year planning timeframe in 2003, additional forecasted water demand will be approximately 106,860 gallons per day using a 260-gallon-per-day standard. At buildout,~~ An additional 175 ~~422~~ dwelling units built after 2008 are forecasted to require an additional 45,500 ~~160,420~~ gallons per day of potable water. Table 8-3 summarizes these forecasts. These additional demands are a minute portion (0.1%) of the supply increases being planned by Lee County Utilities by 2030 (source: *Lee County's Water Supply Facilities Work Plan*, as updated in July 2008). ~~available capacity of Florida Cities (10,500,000 gallons per day available, minus 7,781,000 gallons per day used during the busiest period).~~

Table 8-3 — Forecasted Water Demand for the Town of Fort Myers Beach

Year	*Permanent Population*	*Peak-Season Population*	*Total Number of Dwelling Units*	*Total Daily Water Demand (at 260g/DU)*	*Forecasted Number of New Dwelling Units after 2008*	*Additional Forecasted Water Demand after 2008*
1996	6,039	15,680	7,710 ~~(based on actual building permits)~~	2,004,600	—	—
2003 ~~(first planning timeframe)~~	6,792	17,635	8,157 ~~8,121~~	2,120,820	— ~~411~~	— ~~106,860 gpd~~
2008	7,100	18,435	8,527	2,217,020	—	—
2013	7,240	18,800	8,696	2,260,960	140	36,400
2018	7,275	18,890	8,738	2,271,880	175	45,500
2023	7,275	18,890	8,738	2,271,880	175	45,500
~~2020 (second planning timeframe)~~			~~8,738~~		~~581~~	~~160,420 gpd~~

Source: See Future Land Use Element and Evaluation/Appraisal Report (2007) for details on forecasts

Bulk Water Agreement with Lee County

In August 2001, the Town of Fort Myers Beach entered into a binding contract with Lee County concerning the source of potable water that would be supplied to customers within town boundaries.

The county agreed to be fully responsible for providing a bulk supply of water to the town, which the town would then resell to its retail customers. The county confirmed that its water production and treatment facilities met all state and federal standards (and would meet all future standards), and that the county has and would continue to have the ability to provide sufficient water to the town for the duration of the agreement (a period of 25 years).

The town agreed not to purchase water from any other source, not to resell this bulk water to any other wholesale customer, and not to construct its own water production and/or treatment facilities.

This contract did not quantify future water demand within the town, inasmuch as the town was nearing buildout and little additional demand was anticipated. Continued planning by Lee County Utilities merely assumes that water customers within the town will require water at the same rates and with the same seasonal patterns as other nearby county water customers. This same approach is reflected in Lee County's July 2008 "Water Supply Facilities Work Plan," which is being incorporated into this plan by Policy 8-A-4.

~~Performance of Existing Facilities~~

~~Florida Cities' existing water facilities are well-maintained and in good condition. The treatment plants and storage systems are regularly inspected, and the utility has established maintenance programs for pipe and meter replacement, valve inspection and operation, and flow testing. Its facilities are regulated by many agencies including the South Florida Water Management District and the Department of Environmental Protection.~~

~~The water supply for Fort Myers Beach arrives along the San Carlos Boulevard corridor. From the mainland to San Carlos Island, water crosses Hurricane Pass through one 16" subaqueous water main and one 16" bridge crossing. Two subaqueous mains also cross Matanzas Pass, a 16" crossing from the Coast Guard Station to Moss Marine and a 12" crossing from just north of the bridge to a point near the Matanzas Seafare restaurant.~~

~~Florida Cities is becoming more involved with the Lee County Regional Water Supply Authority, a non-regulatory entity that stresses a county-wide rather than utility-by-utility approach to managing the public water supply. Higher levels of cooperation among water providers would better serve the interests of the Town of Fort Myers Beach and Lee County, for instance by ensuring a backup source of water for emergency purposes. For example, despite the duplicate water mains entering Estero Island from the north, there is no connection across Big Carlos Pass to transfer water to or from the south. A back-up connection here is feasible due to the proximity of Bonita Springs Utilities' water lines serving the hotel on Black Island.~~

~~The town should continue to monitor the performance of Florida Cities' facilities and service but can allow the Public Service Commission to continue its regulation of the utility's service and rates. The town has the ability to intercede in rate-setting cases decided by the Commission, and may be eligible to assume regulation of the utility in the future. It may even be possible for the town to purchase the water distribution system and handle the retail sale of water within the town. However, there is no compelling need for any of these options under current conditions. Florida Cities has proven helpful on Fort Myers Beach projects, including the relocation of extensive water lines during the recent improvements at Times Square. In 1998, they~~

~~will establish a utility advisory committee for Fort Myers Beach residents and businesses, which will allow for input and dialogue about potential improvements to water service.~~

Traditional and Alternative Water Supply Sources

The South Florida Water Management District updated its Lower West Coast Water Supply Plan in July 2006. The focus of this update was the development of "alternative" water sources, such as wells drilled into deeper aquifers, desalination, re-use of wastewater for irrigation, water conservation measures, and "aquifer storage and recovery" (ASR) where excess water during the rainy season is stored underground for later recovery during the dry season.

Lee County Utilities is committed to developing alternative water sources, including:

- Tapping the Lower Hawthorne aquifer at four wellfields.
- Expanding ASR wells from the two current wellfields to two additional wellfields, and expanding its use further in the future to include reclaimed water.

Essentially all future water supply development by Lee County Utilities will use alternative water supply sources, although traditional sources such as shallow wells will continue in use and will be spread out onto larger wellfields to reduce adverse impacts on wetlands.

~~Expansion Needs~~

~~Florida Cities' potable water system began serving the South Fort Myers area in 1955. The utility reports that no problems are currently foreseen with operations or with new facility siting, expansion, or replacement. The existing permitted and plant design capacities are more than adequate to meeting the current and expected customer demands.~~

~~The performance of existing potable water facilities are constantly monitored to maintain adequate treatment capacity and evaluate the ability of the distribution system to meet future demands. Utility providers generally plan ahead to ensure that sufficient capacity will remain available to accommodate anticipated growth. Any new or expanded facilities that are needed must comply with applicable federal, state, and local regulations. These regulations require that all potable water facilities be constructed, operated, and maintained in accordance with the guidelines established by the Florida Department of Environmental Protection. In addition to these requirements, potable water providers must obtain water use permits from the South Florida Water Management District before any new wells are drilled.~~

Work Plan for Constructing New Water Supply Facilities

In July 2008, a *Water Supply Facilities Work Plan* was published jointly by Lee County Utilities and Lee County Planning. This plan was first mandated state law in 2002 to coordinate water supply planning between local, regional, and state agencies. The objectives were to:

- Identify population and water demands for a planning period from 2007 to 2030 with focus on the planning period from 2007 to 2017.
- Identify existing and planned potable and reclaimed water facilities that will be utilized to meet the projected demand to 2017.
- Identify sources of raw water required to meet the projected demand.
- Identify planned potable water supply and reclaimed water projects required to meet projected demands and specify when they must be developed and how they will be funded.
- Demonstrate that the proposed water supply development projects are feasible with respect to facility capacity and consumptive use permitting.
- Describe Lee County Utilities' efforts in developing alternative water supplies.

Table 6 of the *Water Supply Facilities Work Plan* (last updated in July 2008) presents a ten-year expansion program for Lee County Utilities (see Policy 8-A-4). Existing and proposed uses of traditional and alternative water supply sources are detailed there in conformance with SFWMD's *2005–2006 Lower West Coast Water Supply Plan Update* (approved on July 12, 2006).

Lee County has adopted Table 6 into its Comprehensive Plan potable water sub-element exactly as reprinted below. At present none of these improvements are needed to meet the potable water level of service at Fort Myers Beach; if any are needed during any upcoming five-year period, they will need to be included in the five-year schedule of capital improvements (Table 11-7) in the Capital Improvements Element.

TABLE 6
CAPITAL IMPROVEMENT PROJECTS

10 YEAR WATER SUPPLY DEVELOPMENT PROJECTS

CIP PROJECT #	LCU PROJECT NAME/ LWCWSP Project Name	DESCRIPTION	PROJECT STATUS	TOTAL PROJECT COST	ESTIMATED COMPLETION DATE	FUNDING SOURCE
7097	Corkscrew WTP Wellfield-Alico Road / Corkscrew Lower Hawthorne Wells	Design and construct a 5.0 mgd wellfield capacity and raw water transmission system	The total wellfield expansion project is 30% complete and expected to be completed by November 2008. The alternative water supply portion of this project is 70% complete and expected to be complete in June 2008	$15,899,910.00	November 2008	Grant/Enterprise Fund
7187	Green Meadows WTP Plant Expansion / Green Meadows Lower Hawthorne Wells	Expand Green Meadows WTP capacity, construct additional wells and transmission lines to support plant expansion	Completed an Expansion Process and Regulatory Evaluation. Currently constructing two test/production wells in the Lower Hawthorne aquifer.	$37,000,000.00	2014	Grant / Debt Finance / Enterprise Fund
7602	North Lee County R.O. Plant Wellfield Expansion / Not included in the LWCWSP	Well installation of 2 Lower Hawthorne wells to reduce upcoming and premature water quality decline	Surveying for well sites and wellfield design expected to be underway by May 2008. Expected completion date is December 2008.	$1,650,000.00	December 08	Grant/Enterprise Fund
7028	North Lee County WTP Expansion to 10 MGD / North Lee County Lower Hawthorne Wellfield and Plant Expansion	Expand the treatment capacity of the existing R.O. plant from 5.0 MGD to 10.0 MGD, Includes construction of the well field expansion	Surveying for well sites and wellfield design expected to be underway by May 2008.	$16,250,000.00	2010	Grant/Enterprise Fund
7155	Pinewoods WTP DIW & Wellfield Expansion / Pinewoods WTP Expansion Phase II	Construct a deep injection well for disposal of brine and construct at least 4 Lower Hawthorne wells to provide raw water for R.O. plant	Project substantially complete	$15,924,903.00	January 2007	Grant/Enterprise Fund
7110	ASR Wells @ No. Reservoir & Olga WTP	Complete construction of 30 MGD Storage additional ASR wells	Project on hold due to Arsenic issues	$2,435,552.00	Unknown	Grant/Enterprise Fund
7188	Green Meadows WTP Raw Water Line Improvements	Upsize/Replace raw watermain to increase wellfield efficiency	scheduled for construction in 2008	$2,300,000.00	December 2008	Enterprise Fund

ALTERNATIVE WATER RESOURCE PROJECTS

CIP PROJECT #	LCU PROJECT NAME/ LWCWSP Project Name	DESCRIPTION	PROJECT STATUS	TOTAL PROJECT COST	ESTIMATED COMPLETION DATE	FUNDING SOURCE
7280	Three Oaks WWTP Expansion / Three Oaks Reclaimed Water Transmission System	Expand the Three Oaks WWTP to 6.0 MGD	Reuse pumpstation portion of this CIP project for AWS Project, Project substantially complete	$27,452,866.00	January 2007	Grant/Enterprise Fund
7279	Three Oaks Parkway Widening Sewer / Three Oaks Pwky. Reclaimed Water Transmission System	Relocate and Upgrade Existing water, sewer and reuse lines along Three Oaks Pkwy	Reuse Pipeline portion of this CIP for AWS Project, Project substantially complete	$6,939,250.00	January 2007	Grant/Enterprise Fund
7297	FMB WWTP Elevated Reuse Storage Tank / FMB Reclaimed Elevated Storage Tank	Construct an elevated reuse storage tank in the Fort Myers Beach WWTP Reuse system	A low cost interim alternative has delayed the need for this project, now scheduled for 2011	$4,000,000.00	2011	Grant/Enterprise Fund
7284	Reclaimed Water ASR / Health Park Reclaimed Water ASR Phase I and Phase II	Pilot and construction of a Reclaimed Water ASR for Wastewater Treatment Facilities	Issues related to Arsenic and ASR have delayed this project to 2011	$600,000.00	2011	Grant/Enterprise Fund
Future	Fiesta Village WWTP Reuse ASR and reject Storage	Study, design, and construct reuse ASR Well and convert existing GST to reject tank	scheduled for 2011	$1,500,000.00	2012	Grant/Enterprise Fund
7292	FGCU/Miromar Lakes Reuse Extension / FGCU/Miromar Lakes Reclaimed Water Main	Construct 900 L.F. of 12" reuse main from 3 Oaks WWTP to FGCU	design underway	$126,000.00	2009	Grant/Enterprise Fund
7217	FMB/Iona Reuse System Improvements	Install reuse lines to serve to serve FMB reuse service area	Reuse lines will be constructed as need arises	$1,307,503.00	2008-2011	Enterprise Fund
7240	Pine Island WWTP Reuse System	Expand effluent transmission system to provide irrigation for future customers	Reuse lines will be constructed as need arises	$1,082,806.00	2008	Enterprise Fund
7305	Three Oaks Reuse Transmission Improvements	Upsize/expand 3 Oaks reuse transmission lines to handle increased flows to various sites	Reuse lines will be constructed as need arises	$780,000.00	2008	Enterprise Fund
7111	Automated Flushing Devices	Install automated flushing devices on existing dead-end water mains	on-going	$162,865.00	2008-2010	Enterprise Fund

Water Conservation

With an ever-increasing population and a limited potable water supply, water conservation programs become increasingly important. Citizens of Fort Myer Beach must do their part to conserve this resource. The South Florida Water Management District developed a water conservation program in 1990 which identified six measures specifically for urban areas. These measures identified in the District Water Management Plan (April 1995) include:

- limiting lawn irrigation to the hours between 5:00 P.M. and 9:00 P.M.;
- requiring the adoption of xeriscape landscape ordinances;
- requiring the installation of ultra-low-volume plumbing fixtures in all new construction;
- requiring the adoption of conservation-oriented rate structure by utilities;
- requiring the implementation of leak detection programs by utilities with unaccounted water losses greater than 10%; and
- requiring implementation of water conservation public education programs.

Active water conservation activities as of 2008 are summarized here (also see Policy 8-A-5):

- *Permanent Irrigation Ordinance:* Lee County has imposed an ordinance restricting landscape irrigation to the hours of 5:00 PM to 9:00 AM two days per week (Ordinance No. 05-10). This ordinance is more restrictive than rules of the South Florida Water Management District.
- *Rain Sensors Required:* The Land Development Code requires rain sensors on new irrigation systems (§ 10-154(7)m).
- *Xeriscape Requirements:* The Land Development Code requires xeriscape principles for all required landscaping (§ 10-421(b). Xeriscape principles conserve water through drought-tolerant landscaping, the use of appropriate plant material, mulching, and the reduction of turf areas.
- *Leak Detection Program:* Lee County Utilities has an unaccounted-for water and leak detection program. The latest available data indicate that "unaccounted for" water losses are only 6.22% (calendar year 2006).
- *Water Conservation Education:* Lee County TV airs daily information on water conservation, addressing many ways that water customers can conserve. The Lee County Utilities web site contains several pages devoted to water conservation (start at www.lee-county.com/utilities/). The annual Consumer Confidence Report directs customers to the web site for conservation information. Water conservation posters and pamphlets are placed in schools, libraries, and county offices. About 20 water conservation presentations are made to third-grade students each year, and 4-5 water conservation presentations are made to civic organization throughout Lee County.

As the Town of Fort Myers Beach develops and maintains its public facilities, water conservation measures such as these should be followed, both to reduce consumption and to lessen costs for water supply. The town should take the lead by example (for instance by installing ultra-low-volume plumbing fixtures in new government facilities) and also by adopting ordinances requiring sound water conservation practices. The town should ~~also encourage the Public Service Commission to allow Florida Cities to~~ consider implementing a strong "conservation rate structure" where large water users pay a higher rate per gallon than is charged to frugal users. This approach could discourage excessive lawn irrigation while maintaining low rates for frugal users.

GOALS - OBJECTIVES - POLICIES

Based on the analysis of utility services in this element, the following goals, objectives, and policies are adopted into the Fort Myers Beach Comprehensive Plan:

GOAL 8: To improve the existing systems that provide safe drinking water, irrigation water, sewer service, and solid waste disposal in order to reduce environmental impacts on land and water while keeping costs as economical as possible.

OBJECTIVE 8-A RELATIONS WITH UTILITIES — Increase the town's role in influencing utility providers about service alternatives, facility locations, and conservation of resources.

POLICY 8-A- 1 Mandatory customer connections to water and sewer utilities shall continue to be the policy of the Town of Fort Myers Beach.

POLICY 8-A- 2 When considering improvements to utility systems, utility companies should expect involvement by the town in evaluating alternatives and seeking the best interests of utility customers and other people and resources affected by those decisions.

POLICY 8-A- 3 The town shall seek a significant role in policy matters concerning Lee County Utilities' sewer service, based on the town's dual roles as a major user of this service and its location directly downstream of any effluent discharges into tidal waters.

POLICY 8-A- 4 The town's potable water supply distribution system is supplied by Lee County Utilities under terms set forth in a bulk water agreement approved in August 2001. Lee County Utilities has a long-term expansion plan that details existing and proposed uses of traditional and alternative water supply sources, in accordance with SFWMD's Lower West Coast Water Supply Plan Update (July 2006). Lee County Utilities' expansion plan, the Water Supply Facilities Work Plan, was last updated in July 2008 and is incorporated herein by reference.

POLICY 8-A- 5 The town shares a common interest with Lee County government in ensuring that potable water supplies will be sufficient to meet future demands. The town will coordinate with Lee County on an ongoing basis on the following matters:

1. Analyzing peak season demands and providing sufficient allocations of water.
2. Using consistent population projections and level-of-service standards.
3. Conserving water by adopting a conservation rate structure (see Policy 8-C-6).
4. Implementing a leak detection program and replacing obsolete portions of the water supply system.

OBJECTIVE 8-B LEVELS OF SERVICE — Maintain minimum acceptable levels of service for potable water, sanitary sewer, and solid waste disposal.

POLICY 8-B-1 The minimum acceptable level of service standards for utility services within the Town of Fort Myers Beach shall be:

i. **for potable water service:**

(a) Available supply, treatment, and delivery capacity of 260 gallons per day per equivalent residential connection (ERC), and delivery of potable water at a minimum pressure of 20 pounds per square inch (psi) at the meter anywhere in the system.

(b) Prior to issuance of building permits, the town must obtain assurances from Lee County Utilities that an adequate bulk water supply will be available to the town's water distribution system to serve new development at these same rates.

ii. **for sanitary sewer service:** available capacity to collect, treat, and dispose of wastewater of 175 gallons per day per equivalent residential connection (ERC).

iii. **for solid waste disposal service:** the ability to collect and manage 7 pounds of municipal solid waste per person per day.

An ERC is defined as the total number of meter equivalents using the methodology of the Florida Public Service Commission (and is synonymous with their use of the term "equivalent residential units"). ERCs are used to convert commercial and industrial water or sanitary sewer use into standard units that are based on typical rates of use in dwelling units.

POLICY 8-B-2 The town will enforce these levels of service under the concurrency requirements of Florida law by requiring one of the following before issuance of development permits:

i. development orders or building permits will be issued subject to the condition that, at the time of the issuance of a certificate of occupancy, the necessary facilities and services must be in place and available to serve the development being authorized; or

ii. at the time development orders or building permits are issued, the necessary facilities and services are guaranteed to be in place and available to serve the development at the time of issuance of a certificate of occupancy through an enforceable development agreement pursuant to Section 163.3220, *Florida Statutes*, or through an agreement or development order pursuant to Chapter 380, *Florida Statutes*.

~~POLICY 8-B-3 Prior to issuance of building permits, the town must obtain assurances from Lee County Utilities that an adequate bulk water supply will be available to the town's water distribution system to serve new development at the rates specified in Policy 8-B-1.~~

POLICY 8-B-3~~4~~ The concurrency management system in the town's Land Development Code shall be amended to requirement the assessment of water supply capacity, in addition to treatment plant capacity, when determining compliance with the potable water level of service specified in Policy 8-B-1.

OBJECTIVE 8-C WATER CONSERVATION — Take all reasonable steps to conserve potable water supplies, aiming for a 10% per-capita reduction in water use by 2005.

POLICY 8-C-1 The town shall, by resolution, encourage Lee County Utilities to expand its facilities and agreements for recycling treated wastewater for reuse as irrigation water; deep-well injection of surplus wastewater should be limited to emergency use only.

POLICY 8-C-2 The town shall consult with the South Florida Water Management District to obtain suggestions on regulations to conserve water before adopting such regulations.

POLICY 8-C-3 The town will use drought-tolerant vegetation, xeriscape techniques, recycled water, or other available methods for landscaping publicly owned lands, and encourages private landowners to do the same to reduce usage of potable water for irrigation purposes.

POLICY 8-C-4 The town will continue to require, through its building codes, the use of water-saving plumbing fixtures in all new development and redevelopment.

POLICY 8-C-5 The town will support public educational programs that encourage water conservation practices.

POLICY 8-C-6 ~~The Public Service Commission and Florida Cities Water Company is encouraged to~~ The town should consider implementing a strong conservation rate program where large water users pay a higher rate per gallon than is charged to frugal users.

Application #: 2008-13-TEXT

Description: Modify the Coastal Management ~~and Future Land Use~~ Element~~s~~ to reflect the state's new definition of "coastal high-hazard area"

Pages to be changed: Comprehensive Plan Pages 5–1, 5–2, and 5–25 ~~4–44~~ (see changes on attached pages)

Discussion in E/A Report (adopted on Jan 16 '07): This amendment was not discussed in the E/A Report.

This amendment and 2008-14-MAP are the result of recent state legislation (Chapter 2006-68, copy attached) which changed the definition of the term "coastal high-hazard area" in § 163.3178(2)(h), *Florida Statutes*. All local governments are required to use the new definition in their Comprehensive Plans.

The federal government uses this same term and requires that it be incorporated into each municipality's floodplain regulations. Regrettably, the federal definition is very different (essentially, it means the V or velocity zone along the beach where wave action is expected on top of a storm surge).

For purposes of the Fort Myers Beach Comprehensive Plan, although the old and new state definitions of "coastal high-hazard area" are different, both encompass the entire town. This amendment would replace the old statutory definition in the Coastal Management Element with the new definition.

This term is not defined in any other element of the Comprehensive Plan, but is referred to on page 4–39 of the Future Land Use Element. To ensure compliance with § 163.3178(9)(c), a new Policy 5-A-6 is being added to the Coastal Management Element, a map is being added to the Future Land Use Map Series, and an additional sentence is proposed for Policy 4-B-2 of the Future Land Use Element, as shown in amendment 2008-14-MAP. ~~on the attached page 4–44.~~

Chapter 2006-68 provides optional processes to analyze the effect of a comprehensive plan amendment on hurricane evacuation. Since the town has not adopted a level of service for out-of-county hurricane evacuation, the statutory standard of 16 hours that is now found in § 163.3178(9)(b) will apply (copy attached).

Action by LPA: During a public hearing on November 18, 2008, the LPA unanimously recommended that the Town Council approve the changes as outlined in this report.

Action by Town Council: During a public hearing on December 15, 2008, the Town Council voted unanimously to transmit this amendment for state review.

DCA Objection: *"The proposed EAR-based amendments do not include an amendment to the Coastal Management Element to define the Coastal High Hazard Area as is defined by Section 163.3178, F.S."*

DCA Recommendation: *"Revise the amendment to adopt a Coastal Management Element policy that defines the Coastal High Hazard Area consistent with the definition in Section 163.3178, F.S."*

Response to DCA: This amendment has been modified to accept DCA's recommendation to add a new policy to the Coastal Management Element.

Proposed Final Action: The Town Council should adopt this revised amendment, as described above, as part of Ordinance 09-03.

Final Action: The Town Council adopted this amendment on August 17, 2009, as part of Ordinance 09-03.
(Text shown in red is new or has changed since the initial transmittal of this amendment in January 2009.)

CHAPTER 2006-68

House Bill No. 1359

An act relating to hazard mitigation for coastal redevelopment; amending s. 161.085, F.S.; specifying entities that are authorized to install or authorize installation of rigid coastal armoring structures; authorizing the Department of Environmental Protection to revoke certain authority; authorizing the installation of certain structures as the core of a restored dune feature under specified conditions; amending s. 163.3178, F.S.; requiring the Division of Emergency Management to manage certain hurricane evacuation studies; requiring that such studies be performed in a specified manner; defining the term "coastal high-hazard area"; providing that the application of development policies shall be at the discretion of local government; authorizing local governments to amend comprehensive plans to increase residential densities for certain properties; providing criteria for certain comprehensive plan compliance; requiring local governments to adopt a certain level of service for out-of-county hurricane evacuation under certain circumstances; requiring local governments and developers to enter into certain agreements; providing a deadline for local governments to amend coastal management elements and future land use maps; amending 163.336, F.S., relating to the coastal resort area redevelopment pilot project; revising the requirements for placement of certain coastal redevelopment materials; authorizing the Department of Environmental Protection to consider certain information during certain permit review; deferring the expiration date of the pilot project; requiring the department and local governments to provide a specified analysis of certain projects and to provide a report to the Legislature by a certain date; amending s. 381.0065, F.S.; requiring the issuance of certain permits by the Department of Health to be contingent upon the receipt of certain permits issued by the Department of Environmental Protection; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 161.085, Florida Statutes, is amended, and subsections (8) and (9) are added to that section, to read:

161.085 Rigid coastal armoring structures.—

(3) If erosion occurs as a result of a storm event which threatens private structures or public infrastructure and a permit has not been issued pursuant to subsection (2), unless the authority has been revoked by order of the department pursuant to subsection (8), an ~~the~~ agency, political subdivision, or municipality having jurisdiction over the impacted area may install or authorize installation of rigid coastal armoring structures for the protection of private structures or public infrastructure, or take other measures to relieve the threat to private structures or public infrastructure as long as the following items are considered and incorporated into such emergency measures:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

(a) Protection of the beach-dune system.

(b) Siting and design criteria for the protective structure.

(c) Impacts on adjacent properties.

(d) Preservation of public beach access.

(e) Protection of native coastal vegetation and nesting marine turtles and their hatchlings.

(8) If a political subdivision or municipality installs or authorizes installation of a rigid coastal armoring structure that does not comply with subsection (3), and if the department determines that the action harms or interferes with the protection of the beach-dune system, adversely impacts adjacent properties, interferes with public beach access, or harms native coastal vegetation or nesting marine turtles or their hatchlings, the department may revoke by order the authority of the political subdivision or municipality under subsection (3) to install or authorize the installation of rigid coastal armoring structures.

(9) The department, or an agency, political subdivision, or municipality described in subsection (3), may authorize sand-filled tubes or similar structures proposed as the core of a restored dune feature if the applicant meets the requirements of this section and:

(a) Demonstrates that the United States Fish and Wildlife Service has approved a habitat conservation plan that includes the shoreline where each structure will be placed;

(b) Provides reasonable assurance that adequate sand cover will be maintained over the structure such that the structure will not interact with the beach dune system as rigid coastal armoring or adversely affect marine turtle nesting and provides for a responsible entity to conduct such maintenance; and

(c) Provides reasonable assurance that each structure will be removed if the maintenance required by paragraph (b) proves to be not feasible.

Section 2. Paragraphs (d) and (h) of subsection (2) of section 163.3178, Florida Statutes, are amended, and subsection (9) is added to that section, to read:

163.3178 Coastal management.—

(2) Each coastal management element required by s. 163.3177(6)(g) shall be based on studies, surveys, and data; be consistent with coastal resource plans prepared and adopted pursuant to general or special law; and contain:

(d) A component which outlines principles for hazard mitigation and protection of human life against the effects of natural disaster, including population evacuation, which take into consideration the capability to safely evacuate the density of coastal population proposed in the future land use plan element in the event of an impending natural disaster. The Division of

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Emergency Management shall manage the update of the regional hurricane evacuation studies, ensure such studies are done in a consistent manner, and ensure that the methodology used for modeling storm surge is that used by the National Hurricane Center.

(h) Designation of coastal high-hazard ~~coastal~~ areas and the criteria for mitigation for a comprehensive plan amendment in a coastal high-hazard area as defined in subsection (9), ~~which for uniformity and planning purposes herein, are defined as category 1 evacuation zones~~. The coastal high-hazard area is the area below the elevation of the category 1 storm surge line as established by a Sea, Lake and Overland Surges from Hurricanes (SLOSH) computerized storm surge model. ~~However,~~ Application of mitigation and the application of development and redevelopment policies, pursuant to s. 380.27(2), and any rules adopted thereunder, shall be at the discretion of local government.

(9)(a) Local governments may elect to comply with rules 9J-5.012(3)(b)(6) and 9J-5.012(3)(b)(7), Florida Administrative Code, through the process provided in this section. A proposed comprehensive plan amendment shall be found in compliance with state coastal high-hazard provisions pursuant to rules 9J-5.012(3)(b)(6) and 9J-5.012(3)(b)(7), Florida Administrative Code, if:

1. The adopted level of service for out-of-county hurricane evacuation is maintained for a category 5 storm event as measured on the Saffir-Simpson scale;

2. A 12-hour evacuation time to shelter is maintained for a category 5 storm event as measured on the Saffir-Simpson scale and shelter space reasonably expected to accommodate the residents of the development contemplated by a proposed comprehensive plan amendment is available; or

3. Appropriate mitigation is provided that will satisfy the provisions of subparagraph 1. or subparagraph 2. Appropriate mitigation shall include, without limitation, payment of money, contribution of land, and construction of hurricane shelters and transportation facilities. Required mitigation shall not exceed the amount required for a developer to accommodate impacts reasonably attributable to development. A local government and a developer shall enter into a binding agreement to memorialize the mitigation plan.

(b) For those local governments that have not established a level of service for out-of-county hurricane evacuation by July 1, 2008, but elect to comply with rules 9J-5.012(3)(b)(6) and 9J-5.012(3)(b)(7), Florida Administrative Code, by following the process in paragraph (a), the level of service shall be no greater than 16 hours for a category 5 storm event as measured on the Saffir-Simpson scale.

(c) This subsection shall become effective immediately and shall apply to all local governments. No later than July 1, 2008, local governments shall amend their future land use map and coastal management element to include the new definition of coastal high-hazard area and to depict the coastal high-hazard area on the future land use map.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Section 3. Subsections (2) and (3) of section 163.336, Florida Statutes, are amended to read:

163.336 Coastal resort area redevelopment pilot project.—

(2) PILOT PROJECT ADMINISTRATION.—

(a) To be eligible to participate in this pilot project, all or a portion of the area must be within:

1. The coastal building zone as defined in s. 161.54; and

2. A community redevelopment area, enterprise zone, brownfield area, empowerment zone, or other such economically deprived areas as designated by the county or municipality with jurisdiction over the area.

(b) Local governments are encouraged to use the full range of economic and tax incentives available to facilitate and promote redevelopment and revitalization within the pilot project areas.

(c) The Office of the Governor, Department of Environmental Protection, and the Department of Community Affairs are directed to provide technical assistance to expedite permitting for redevelopment projects and construction activities within the pilot project areas consistent with the principles, processes, and timeframes provided in s. 403.973.

(d) The Department of Environmental Protection shall exempt construction activities within the pilot project area in locations seaward of a coastal construction control line and landward of existing armoring from certain siting and design criteria pursuant to s. 161.053. However, such exemption shall not be deemed to exempt property within the pilot project area from applicable local land development regulations, including but not limited to, setback, side lot line, and lot coverage requirements. Such exemption shall apply to construction and redevelopment of structures involving the coverage, excavation, and impervious surface criteria of s. 161.053, and related adopted rules, as follows:

1. This review by the department of applications for permits for coastal construction within the pilot project area must apply to construction and redevelopment of structures subject to the coverage, excavation, and impervious surface criteria of s. 161.053, and related adopted rules. It is the intent of these provisions that the pilot project area be enabled to redevelop in a manner which meets the economic needs of the area while preserving public safety and existing resources, including natural resources.

2. The criteria for review under s. 161.053 are applicable within the pilot project area, except that the structures within the pilot project area shall not be subject to specific shore parallel coverage requirements and are allowed to exceed the 50 percent impervious surface requirement. In no case shall stormwater discharge be allowed onto, or seaward of, the frontal dune. Structures are also not bound by the restrictions on excavation unless the construction will adversely affect the integrity of the existing seawall or rigid coastal armoring structure or stability of the existing beach and dune

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COASTAL MANAGEMENT ELEMENT

The state of Florida requires all counties and cities along the coast to address special coastal management concerns that do not apply to non-coastal communities. An important reason is the need to protect these resources and human life and property in locations that are subject to large-scale destruction by tropical storms and hurricanes. This element begins with brief inventories of coastal resources in and around the Town of Fort Myers Beach, followed by in-depth treatment of critical coastal planning issues.

COASTAL PLANNING

Coastal Boundaries

The state provides guidelines for local governments in establishing their "coastal planning area," specifying: (1) water and submerged lands oceanic water bodies or estuarine water bodies, (2) shorelines adjacent to oceanic waters or estuaries, (3) coastal barriers, (4) living marine resources, (5) marine wetlands, (6) water-dependent facilities or water-related facilities on oceanic or estuarine waters, (7) public access facilities to oceanic beaches or estuarine shorelines, (8) and all lands adjacent to such occurrences where development activities would impact the integrity or quality of the above resources.

Another important coastal boundary is the coastal high-hazard area which is defined by state law as the area below the elevation of the ~~evacuation zone for a~~ category I storm surge line as established by a Sea, Lake and Overland Surges from Hurricanes (SLOSH) computerized storm surge model. ~~hurricane as established in the regional hurricane evacuation study.~~

Based on many of these guidelines, the entire municipal boundary of the town is within the coastal planning area. Figure 1 is an aerial view of the southerly end of Estero Island, taken from the south. Figure 2 illustrates the precise boundary of the town's coastal planning area and coastal high-hazard area (the entire land area of the town plus its 1,000-foot jurisdiction over the waters). Figure 3 depicts the various hurricane vulnerability zones as determined by the Hurricane Evacuation Study, Southwest Florida (SWFRPC, 1995).

***Figure 5**, Aerial view of Estero Island from the south*

Existing Land Use Conditions

The proximity of the Gulf of Mexico and Estero Bay make Fort Myers Beach one of the most desirable places to live and work in southwest Florida. Located within a highly populated county and being located on a bridged barrier island, it is not surprising that the Town of Fort Myers Beach is nearing full build-out of its develop-able land.

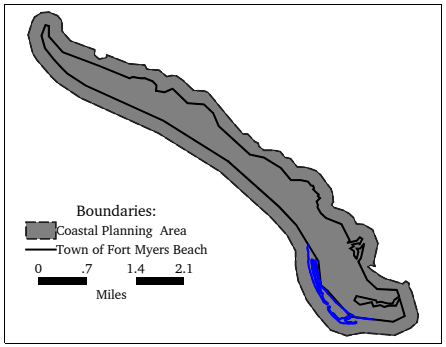

Figure 2*, Coastal Planning Area, Coastal Floodplain, and Coastal High-Hazard Area (entire town)*

The entire coastal planning area, as shown in Figure 2, is in the floodplain for coastal flooding, and also is in the coastal high-hazard area as defined by the state of Florida (see Figure 17 of the Future Land Use Map series and Policy 5-A-6).

The Town of Fort Myers Beach is approximately 1466 acres in size. The town stretches about 7 miles in length and averages ½ mile wide. The town is surrounded by water: to the southwest is the Gulf of Mexico; to the north is San Carlos Bay; to the east is Matanzas Pass and Estero Bay; and to the south is Big Carlos Pass. The town has approximately 41 miles of streets with Estero Boulevard running the length of the island serving as the main thoroughfare.

Because of its proximity to coastal waters, the town's land uses are intimately tied to tourism and resort living. Although the existing uses are linked primarily to tourism, there are distinct areas within the town's municipal limits.

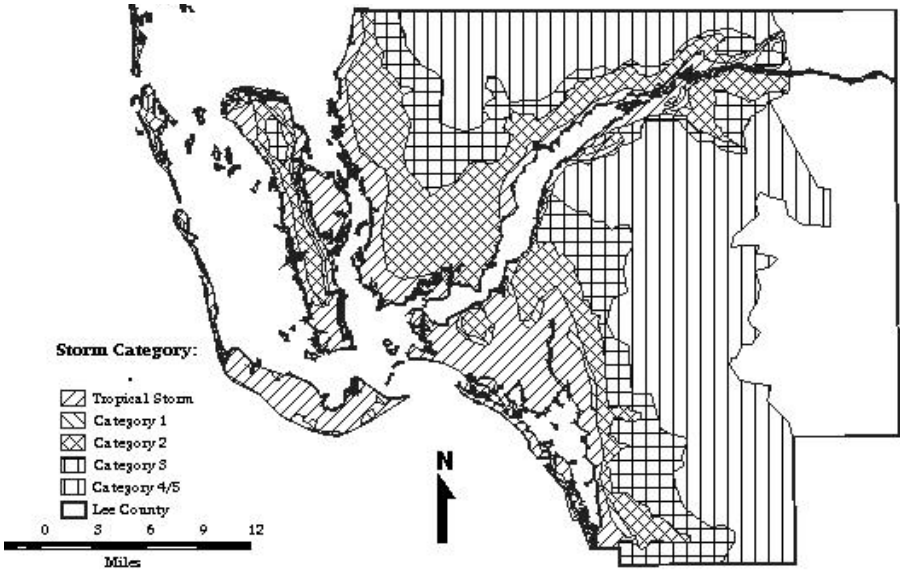

Figure 3*, Lee County Hurricane Vulnerability Zones*

The North End maintains a residential and resort identity. At the northern tip of the island lies Bowditch Point, a regional park. Close to Bowditch Point are several highrise hotels, resorts, and multi-family developments. Single-family dwellings are interspersed among these uses, especially on the bay side.

The Times Square area is filled with restaurants and stores that cater to tourists and residents alike. The centerpiece is Lynn Hall Memorial Park, a popular destination for beachgoers where they can sunbathe and enjoy the Gulf waters within easy reach of parking, shopping, and food.

Many of Estero Island's original settlers located in what is now referred to as the Near Town district. This district, located on the bay side of Estero Boulevard, has primarily single-family homes with a few multi-family units mixed in. The homes are among the oldest on the island. Many of the homesites have direct water access, with canals having been dredged at the time of original development.

GOALS - OBJECTIVES - POLICIES

Based on the analysis of coastal issues in this element, the following goals, objectives, and policies have been drafted for inclusion in the Fort Myers Beach comprehensive plan.

GOAL 5: To keep the public aware of the potential effects of hurricanes and tropical storms and to plan a more sustainable redevelopment pattern that protects coastal resources, minimizes threats to life and property, and limits public expenditures in areas subject to destruction by storms.

OBJECTIVE 5-A COASTAL PLANNING GENERALLY — Protect and enhance coastal resources through an on-going planning process that recognizes the advantages and limitations of living within a sensitive coastal environment. Enhancement of coastal resources can be measured by increased sea turtle nesting, improvements in estuarine water quality, and restoration of sand dunes. Important limitations on development in this coastal high hazard area include the existing over-concentration of people plus town, state, and federal policies against public expenditures that subsidize further private development.

POLICY 5-A-1 The town shall maintain and enforce building codes at least as stringent as required by Florida law to limit the potential damage of structures from hurricanes and tropical storms. These codes shall include wind-resistance commensurate with the risk of a coastal environment and building elevation requirements that conform with federal laws and Flood Insurance Rate Maps.

POLICY 5-A-2 The maximum density of future residential development is limited to the densities described in the Future Land Use Element in recognition of natural hazards and existing population concentrations. For rebuilding of existing development, refer to the buildback policies under Objective 4-D and 4-E of the Future Land Use Element.

POLICY 5-A-3 When state funding is required for the relocation of replacement of infrastructure currently within the Coastal Building Zone, the capacity of the replacement structure shall be limited to maintaining required service levels, protecting existing residents, and providing for recreation and open space needs.

POLICY 5-A-4 Since the entire Town of Fort Myers Beach is within the coastal planning area and is designated as a coastal high hazard area, specific policies addressing historic buildings, phasing of infrastructure, limitations on development, and environmental resources are contained in other elements of this plan and are not repeated here.

POLICY 5-A-5 Due to the physical constraints of its coastal location, the Town of Fort Myers Beach commits to a future policy of no increase in the net development capacity (island-wide) that would be allowed by the Fort Myers Beach comprehensive plan.

POLICY 5-A-6 The entire town is located within the coastal high-hazard area, as shown on Figure 17 which is part of the adopted Future Land Use Map series (see Policy 4-B-2).

Application #: 2008-14-MAP

Description: Modify the Future Land Use Map, Policy 4-B-2, and Chapter 1 to depict the state's new definition of "coastal high-hazard area"

Pages to be changed: ~~None~~ Comprehensive Plan Pages 1–2, 4–41, 4–42, and 4–44 (see changes on attached pages)

Discussion in E/A Report (adopted on Jan 16 '07): This amendment was not discussed in the E/A Report.

This and the previous amendment (2008-13-TEXT) are the result of recent state legislation which changed the definition of the term "coastal high-hazard area" in § 163.3178(2)(h), *Florida Statutes*.

Local governments are required to include a map of their "coastal high-hazard zone" on their Future Land Use Map. Since the old and new zones are identical, no changes are required to the Fort Myers Beach Future Land Use Map.

Since both zones encompass the entire town, it may not be obvious to review agencies that the town is already in compliance with this new requirement without a map amendment. To demonstrate compliance with § 163.3178(9)(c), a prior amendment (2008-13-TEXT) is adding a new sentence to Policy 4-B-2 of the Future Land Use Element stating that the entire town is located within the coastal high-hazard area.

~~Therefore, the map amendment previously proposed is not necessary.~~ To respond to DCA's objection as reprinted below, four changes are now proposed, as shown on the following pages:

- The first is to add narrative on Page 1-2 explaining that a new Figure 17 is part of the legally adopted comprehensive plan.
- The second to add narrative on Page 4-41 explaining that a new Figure17 is being added to the Future Land Use Map series to show that the entire town is in the "coastal high-hazard area" as defined in § 163.3178(2)(h), *Florida Statutes*.
- The third is to display the new Figure 17 on Page 4–42.
- The fourth is to add a reference to the new Figure 17 in Policy 4-B-2 on Page 4–44.

Action by LPA: During a public hearing on November 18, 2008, the LPA unanimously accepted ~~this~~ the original recommendation as written (to not adopt this amendment).

Action by Town Council: During a public hearing on December 15, 2008, the Town Council voted unanimously to transmit ~~this amendment~~ the LPA's recommendation for state review.

DCA Objection: *"The Town's Comprehensive Plan Future Land Use Map (or map series) does not depict the Coastal High Hazard Area, and the proposed Amendment 09-1ER does not amend the Future Land Use Map (or map series) to depict the Coastal High Hazard Area, supported by data and analysis, consistent with the new definition of the Coastal High Hazard Area."*

DCA Recommendation: *"Revise the Future Land Use Map (or map series) to depict the Coastal High Hazard Area, supported by data and analysis, consistent with the definition of the Coastal High Hazard Area."*

Response to DCA: This amendment has been modified to accept DCA's recommendation.

Proposed Final Action: The Town Council should adopt this revised amendment, as described above, as part of Ordinance 09-03.

Final Action: The Town Council adopted this amendment on August 17, 2009, as part of Ordinance 09-03.
(Text shown in red is new or has changed since the initial transmittal of this amendment in January 2009.)

HOW THIS DOCUMENT IS ORGANIZED

This document is organized into fifteen chapters. Following this introduction is "Envisioning Tomorrow's Fort Myers Beach," an optimistic look at the community that the town hopes will evolve. The next twelve chapters contain the twelve main "elements" of this plan, organized by subject area. The Community Design Element is placed first because its concepts have inspired many other parts of this plan. The final chapter contains procedures for interpreting and monitoring this plan.

Each element contains at least two parts:

- A narrative description of current conditions and possible courses of action for the town; and
- Formal goals, objectives, and policies selected by the town as its legally binding comprehensive plan.

The Town of Fort Myers Beach has decided to publish the full narrative portion of each element in this document. This provides its residents with a wealth of interesting information and an understanding of courses of action that were studied but perhaps not included in the formal plan.

The town legally "adopted" only certain portions of this document as its formal comprehensive plan. Formally adopted by Ordinance 98-14, effective January 1, 1999, are:

- All goals, objectives, and policies for each of the twelve elements;
- A "Future Land Use Map" (Figures 16 and 17 in the Future Land Use Element) and a "Future Transportation Map" (Figure 18 in the Transportation Element);
- A five-year schedule of capital improvements (Table 11-7); and
- All of Chapters 1, 2, and 15.

To help readers identify those portions of each element that are being formally adopted, the goals, objectives, and policies of each element are printed on gray paper. The "adopted" portions of this plan become a law of the Town of Fort Myers Beach. Once comprehensive plans are adopted, "…no public or private development shall be permitted except in conformity with comprehensive plans…" (Section 163.3161(5), *Florida Statutes*).

REVISED FUTURE LAND USE MAP

This plan adopts a new "Future Land Use Map" for the Town of Fort Myers Beach. It replaces the map in the current comprehensive plan, which was adopted by Lee County in 1991 at the urging of the Fort Myers Beach Land Use Plan Committee.

The 1991 map divides Estero Island into four categories:

- **Suburban:** applied to most single-family subdivisions and many multifamily developments (for a total of 541 acres).
- **Urban Community:** applied to areas of greater intensity of development, including most commercial areas and many high-rise residential areas (for a total of 174 acres).
- **Public Facilities:** applied to publicly owned land such as Little Estero Island, the Matanzas Pass Preserve and adjoining school and library, and to Bay Oaks, Lynn Hall, and Bowditch Point Parks.
- **Wetlands:** applied to remaining wetlands.

Several shortcomings with the previous maps and their application have become apparent. These include:

- The special policies that were supposed to apply to the "Urban Community" category to avoid over-commercialization have not accomplished their purpose.
- In conformance with past Lee County practice, land-use categories are often assumed to extend out to the mean high water line. Therefore, the dry sandy beach, including newly accreted sand, has often been counted in determining the allowable density of development. This factor inflates the allowable intensity of development along the beaches.
- No provisions were made to allow density to be transferred from one site to a non-contiguous parcel, even when this may be in the public interest.
- No distinction was made between residential areas of varying densities; single-family neighborhoods and high-rise towers often shared the same category.
- The Town of Fort Myers Beach has municipal jurisdiction over waters as far as 1,000 feet beyond Estero Island. The previous Future Land Use Map is silent as to how continuing activities over those waters (such as marina basins, docks, mooring pilings, and boathouses) should be regulated.

In response to these shortcomings, a new Future Land Use Map has been created for this comprehensive plan, as illustrated in Figure 16[1]. This plan has eight distinct categories:

- **Low Density:** applied to existing subdivisions with an established low-density character (primarily single-family homes). The maximum density is 4 dwelling units per acre. The only commercial uses allowed are home occupations.

- **Mixed Residential:** applied to older subdivisions with mixed housing types on smaller lots, and to newer high-rise buildings. The maximum density is 6 dwelling units per acre, except where a Future Land Use Map overlay indicates a maximum density of 10 units per acre for legally existing dwelling units. Commercial activities are limited to lower-impact uses such as offices and motels.
- **Boulevard:** a mixed-use district along portions of Estero Boulevard, including less-intense commercial

[1] *In accordance with Rule 9J-5.006(4): lakes, beaches, canals, bays, and estuaries are also shown on Figure 16. There are no existing or planned public wells at Fort Myers Beach. No historic districts have been established to date. All of the Town of Fort Myers Beach is in the coastal high hazard area. Natural soil types have been obscured by land development activities, but an inventory of remaining soil types can be found in the Soil Survey of Lee County, Florida, U.S. Soil Conservation Service, 1984.*

areas and mixed housing types. The maximum density of residential development here is 6 dwelling units per acre, except where a Future Land Use Map overlay indicates a maximum density of 10 units per acre for legally existing dwelling units.

- **Pedestrian Commercial:** a primarily commercial district applied to the intense activity centers of Times Square (including Old San Carlos and nearby portions of Estero Boulevard) and the area around the Villa Santini Plaza. The maximum density of residential development is 6 dwelling units per acre, except where a Future Land Use Map overlay indicates a density of 10 units per acre for affordable units consistent with the adopted redevelopment plan.

- **Marina:** water access services, primarily for pleasure boating, including related accessory uses provided they don't displace marina services. Cruise ships and similar uses that draw large amounts of vehicular traffic are not permitted in this category.

- **Recreation:** applied to public parks, public swimming pool, elementary school, undevelopable portions of the Bay Beach golf course, and Gulf beaches (those portions seaward of the 1978 coastal construction control line). Additional accretions of beach, whether by natural causes or through beach renourishment, will automatically be assigned to this category. No new residential development is permitted (although several existing buildings were legally constructed partially seaward of the control line). The maximum density of residential development here is 1 dwelling units per 20 acres, with all units to be constructed outside this category. The application of this category does not affect any party's ownership rights to the beachfront.

- **Wetlands:** a conservation district applied to all remaining wetlands. The maximum density of residential development here is 1 dwelling units per 20 acres.

- **Tidal Water:** applied to all saltwater canals and all waters surrounding Estero Island that lie within the municipal boundary (out 1,000 feet). No residential development is permitted.

Table 4-8 tabulates the total acreage in each category on the new Future Land Use Map. The "Tidal Water" category includes the tidal canals and all open water out to the municipal boundary, which is 1,000 feet beyond Estero Island.

Table 4-8 — Future Land Use Map

Category	*Acres*
Low Density	410.2
Mixed Residential	590.9
Boulevard	64.1
Pedestrian Commercial	77.8
Marina	6.9
Recreation	292.9
Wetlands	105.6
Tidal Water	2,164.6
TOTAL:	**3,713.0 acres**

Four of these categories allow a mixture of land uses. In accordance with state regulations, this plan must include an objective measure for the distribution of land-use mixes in those categories. Table 4-9 identifies the current acreage of non-residential uses (or school and public uses in "Recreation") within each mixed-use category, and then proposes a percentage cap for

Table 4-9 — Mixed-Use Percentages, Existing and Proposed

Category	December 1998 Actual Totals: Commercial Uses	Other Non-Residential Uses	Total Non-Residential Uses		School/Public Use		Proposed Cap	Additional Allowed
	Acres	Acres	Acres	%	Acres	%	%	Acres
Mixed Residential	28.1	18.4	46.5	7.9%			**12%**	**24.2**
Boulevard	24.5	5.6	30.1	46.9%			**70%**	**14.8**
Pedestrian Commercial	44.3	1.5	45.8	58.9%			**90%**	**24.2**
Recreation					7.8	2.7%	**6%**	**9.7**

each category. The final column shows the additional acreage of non-residential (or school/public) uses that would be allowed based on the percentage cap.

Policies 4-B-4, 4-B-5, 4-B-6, and 4-B-8 include the existing percentage plus the proposed cap (as shown in Table 4-9) for each of the four mixed-use categories. The cap defines the maximum percentages of non-residential (or school/public) land uses that can be built throughout each category without an amendment to this plan. For the purpose of these computations, non-residential land uses are defined as commercial and marina uses; according to the definitions in Policy 4-B-12, this also includes motels, churches, and civic buildings. Land used for government purposes and for utility installations are also included, but road rights-of-way are not counted.

Allowable uses for all of the eight new categories are described below under Objective 4-B. Upon adoption, these goals, objectives, and policies become law, and will be implemented where necessary through amendments to the Fort Myers Beach Land Development Code.

These categories will immediately replace the categories shown on the current Future Land Use Map. Where the adopted category descriptions contain absolute limits (such as the density or percentage caps for various land use categories), those limits will have immediate legal effect that will supersede more lenient standards that apply to certain zoning districts. The adoption of these categories does not itself change or eliminate the current zoning district assigned to each parcel of land.

Many parts of this comprehensive plan will be implemented through changes to the Land Development Code, which by state law must conform with this plan within one year (*F.S.* 163.3202). These amendments may include rezoning of many or all properties for various reasons, such as:

- to conform the zoning district of specific properties to the requirements of this plan; or
- to combine several similar zoning districts into a single new district to simplify the Land Development Code.

Landowners whose property is proposed for rezoning will receive notice in accordance with state law.

As described in the Coastal Management Element, the entire town is in the "coastal high-hazard area" as defined in § 163.3178(2)(h), *Florida Statutes*. Figure 17 on the next page shows the coastal high-hazard area on a map, which is being formally adopted into this plan as part of the Future Land Use Map series.

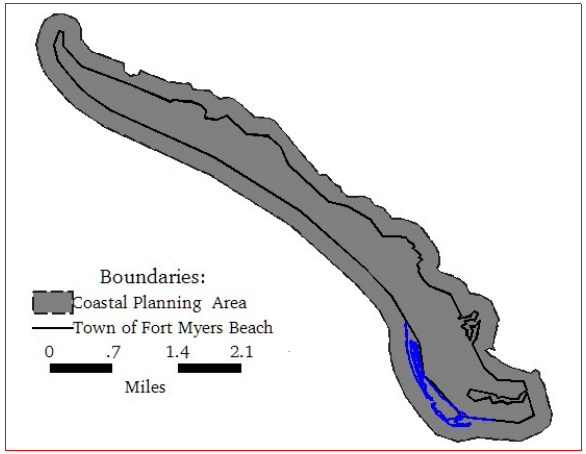

Figure 17, Coastal High-Hazard Area (entire town) as defined in §163.3178(2)(h), *Florida Statutes*

out damaging the aesthetic qualities of the town;

i. resolves inconsistencies between current zoning and land development regulations and this comprehensive plan using the guidelines found in Chapter 15;

ii. encourages the conservation and re-use of historic buildings as described in the Historic Preservation Element;

iii. in existing subdivisions, controls the scale of new homes to avoid the replacement of existing homes with excessively large structures; and

iv. ensures the availability of public facilities at the levels of service specified in this plan concurrently with the impacts of development (see Capital Improvements Element for a summary of these levels of service plus guidelines for the town's Concurrency Management System).

OBJECTIVE 4-B FUTURE LAND USE MAP CATEGORIES — Reduce the potential for further overbuilding through a new Future Land Use Map that protects remaining natural and historic resources, preserves the small-town character of Fort Myers Beach, and protects residential neighborhoods against commercial intrusions.

POLICY 4-B- 1 **OVERBUILDING:** Judicious planning could have avoided the kind of overbuilding found at Fort Myers Beach by limiting construction to match road capacity and the physical environment. Since such planning came too late, the town must deal with today's congestion plus the impacts of future development that has vested rights to proceed. These conditions have shaped the vision of this plan, as development rights once granted are not easily or lightly reversed; great care has been taken in this plan to balance important public and private rights.

POLICY 4-B- 2 **MAP ADOPTION:** The Town of Fort Myers Beach hereby adopts a Future Land Use Map (Figure 16) to govern further subdivision and development within its municipal boundary. The entire town is located within the coastal high-hazard area, as shown on Figure 17 which is part of the adopted Future Land Use Map series. This map advances the principles of this comprehensive plan by assigning one of eight categories to all land and water, based on its location, condition, and existing uses.

POLICY 4-B- 3 **"LOW DENSITY":** designed for existing subdivisions with an established low-density character (primarily single-family homes). For new development, the maximum density is 4 dwelling units per acre, and commercial activities are limited to home occupations as described in the Land Development Code (limited to incidental uses by the dwelling unit's occupant that do not attract customers or generate additional traffic).

POLICY 4-B- 4 **"MIXED RESIDENTIAL":** designed for older subdivisions with mixed housing types on smaller lots, newer high-rise buildings, and mobile home and RV parks. This category will ensure that Fort Myers Beach retains a variety of neighborhoods and housing types. For new development, the maximum density is 6 dwelling units per acre