

1. Requested Motion:

Meeting Date: April 19, 2010

Adopt Ordinance 10-07 to incorporate the current CIP into Table 11-7 of the Comprehensive Plan's Capital Improvements Element.

Why the action is necessary:

This ordinance would formally amend the Comprehensive Plan.

What the action accomplishes:

2. Agenda:

- Consent
- Administrative

3. Requirement/Purpose:

- Resolution
- Ordinance
- Other

4. Submitter of Information:

- Council
- Town Staff
- Town Attorney

5. Background:

A standard Town Ordinance has been developed to allow the Town to amend the Comprehensive Plan on an annual basis to incorporate the current capital improvements program (CIP), as adopted by the Town Council as part of the budget process. This incorporation is required by the Comp Plan.

There is no legal requirement for the LPA to review the Ordinance, as the Ordinance merely incorporates the adopted CIP into the Comp Plan and the LPA is required by the Town Comprehensive Plan to review the CIP each year prior to Council adoption. In future years, the Town can merely add the then-current information to this ordinance and consider its passage. By standardizing these annual ordinances (and resolutions), the Town will realize a cost savings in the future in legal fees.

6. Alternative Action:

Send ordinance to LPA for review.

7. Management Recommendations:

Adopt the ordinance.

8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director	Town Clerk
						

9. Council Action:

- Approved
- Denied
- Deferred
- Other

ORDINANCE NO. 10-07

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH AMENDING THE COMPREHENSIVE PLAN OF THE TOWN OF FORT MYERS BEACH TO UPDATE THE CAPITAL IMPROVEMENT PLAN; PROVIDING AUTHORITY; PROVIDING FOR CONFLICTS; SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Article VIII, Section 2 of the Constitution of the State of Florida and Chapters 166 and 163 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, Policy 11-A-2 of the Town of Fort Myers Beach Comprehensive Plan (Comp Plan) requires that a capital improvements program (CIP) be developed each year by the Town Manager based on a review of existing facilities, level of service standards, current and projected deficiencies, and capital needs as identified in the Comp Plan; and

WHEREAS, the proposed CIP must then be reviewed by the Local Planning Agency (LPA) which shall consider the consistency of all proposed CIP expenditures with the Comp Plan and provide a report to Town Council; and

WHEREAS, after reviewing the LPA report, the Town Council shall modifies the CIP as needed and adopt it via resolution in conjunction with the annual budget and shall have the ability to further modify it via resolution; and

WHEREAS, Policy 11-A-7 of the Comprehensive Plan of the Town of Fort Myers Beach (Comp Plan) requires the Town to update its five-year schedule of capital improvements each year by amending Table 11-7 of the Comp Plan to correspond with revisions to the capital improvements program (CIP) made by the Town during its annual budget process; and

WHEREAS, at its meeting on August 11, 2009, the LPA reviewed the CIP for FY 2010 for consistency with the Comp Plan and provided the Town Council with its comments via LPA Resolution 2009-17; and

WHEREAS, on September 21, 2009, the Town Council adopted the CIP for FY 2010 in conjunction with the annual budget via Town Resolution 09-28; and

WHEREAS, the measures set forth in this Ordinance are necessary to provide for the protection of public health, safety and welfare of the citizens of the Town.

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

SECTION 1. INCORPORATION OF RECITALS. The above "whereas" clauses are incorporated herein as though fully set forth.

SECTION 2. AMENDMENT OF COMP PLAN . The Council hereby amends the Comprehensive Plan by adopting Table 11-7 for FY10. A true and correct copy of Table 11-7 is attached to this Ordinance as Exhibit A and is hereby incorporated by reference. The adoption of this Table shall be deemed to repeal Table 11-7 for any preceding year. The Town Manager is authorized to perform all administrative actions necessary to codify this Table into the Comprehensive Plan.

SECTION 3. CONFLICTS. Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted Ordinance or Statute, the most restrictive shall apply.

SECTION 4. 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 be held as invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and shall in no way affect the validity of all other provisions of this ordinance.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect immediately.

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

Larry Kiker, Mayor	_____	Bob Raymond, Vice Mayor	_____
Tom Babcock	_____	Jo List	_____
Alan Mandel	_____		

DULY PASSED AND ENACTED this _____ day of _____, 2010.

ATTEST:

TOWN OF FORT MYERS BEACH

Michelle D. Mayher, Town Clerk

BY: _____
Larry Kiker, Mayor

Approved as to legal form by:

Anne Dalton, Esquire
Town Attorney

Table 11-7 — Revised Five-Year Schedule of Capital Improvements, FY 09/10 to 13/14

	Reduce level of service deficiency	Maintain LOS?	Meet LOS after growth?	Replace facility to maintain LOS?	Desirable but not related to LOS	FY 09/10 (Capital budget)	FY 10/11 (Projected in CIP)	FY 11/12 (Projected in CIP)	FY 12/13 (Projected in CIP)	FY 13/14 (Projected in CIP)
TRANSPORTATION CAPITAL IMPROVEMENTS:										
Stormwater improvements (HMPG 1609, Carolina to Tropical Shores)	-	-	-	✓		\$650,000	\$0	\$0	\$0	\$0
Stormwater improvements (small high-priority improvements)	-	-	-	✓		\$125,000	\$0	\$0	\$0	\$0
North Estero Blvd. improvements (Times Square to Bowditch Point)	-	-	-	✓		\$4,159,556	\$0	\$0	\$0	\$0
Solid waste transfer station (end of Oak Street)	-	-	-	✓		\$42,900	\$0	\$0	\$0	\$0
Total of proposed annual expenditures:						\$4,977,456	\$0	\$0	\$0	\$0
Transportation reserves carried forward from prior year:						\$2,767,870	\$0	\$125,000	\$245,000	\$360,000
Anticipated annual transportation/related revenue for capital improvements:						\$2,209,586	\$125,000	\$120,000	\$115,000	\$110,000
Anticipated year-end transportation reserves after proposed expenditures:						\$0	\$125,000	\$245,000	\$360,000	\$470,000
NON-TRANSPORTATION CAPITAL IMPROVEMENTS:										
Beach nourishment	-	-	-	✓		\$1,000,000	\$0	\$0	\$0	\$0
Newton Park	-	-	-	✓		\$500,297	\$0	\$0	\$0	\$0
Mound House improvements	-	-	-	✓		\$1,163,398	\$0	\$0	\$0	\$0
Neighborhood landscaping (matching funds for street trees)	-	-	-	✓		\$12,500	\$0	\$0	\$0	\$0
Beach access improvements (restrooms)	-	-	-	✓		\$128,475	\$0	\$0	\$0	\$0
Capital repairs to potable water system	-	-	-	✓		\$0	\$0	\$3,000,000	\$3,000,000	\$0
Total of proposed annual expenditures:						\$2,804,670	\$0	\$3,000,000	\$3,000,000	\$0
Non-transportation reserves carried forward from prior year:						\$1,000,000	\$0	\$1,114,660	(\$770,680)	(\$2,656,020)
Anticipated annual revenue for non-transportation capital improvements:						\$1,804,670	\$1,114,660	\$1,114,660	\$1,114,660	\$1,114,660
Anticipated year-end non-transportation reserves after proposed expenditures:						\$0	\$1,114,660	(\$770,680)	(\$2,656,020)	(\$1,541,360)