



Town of Fort Myers Beach

Larry Kiker
Mayor

Bob Raymond
Vice Mayor

Tom Babcock
Council Member

Jo List
Council Member

Alan Mandel
Council Member

Ray Eubanks, Plan Processing Administrator
Florida Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

May 11, 2010

Dear Mr. Eubanks,

On April 19, 2010, the Town Council of Fort Myers Beach adopted ordinance 10-07, which adopted an amendment to the Fort Myers Beach Comprehensive Plan for the sole purpose of updating the five-year schedule of capital improvements in the Capital Improvements Element. The amendment is a modification as required by Section 163.3177(3)(b)1., *Florida Statutes*, and is therefore exempt from the twice-per-year limit under Section 163.3187(1)(f), *Florida Statutes*.

The Notice of Intent should be published in the Fort Myers *News-Press*, which is a newspaper of general circulation in the Town of Fort Myers Beach.

As background information, the Local Planning Agency resolution recommending approval of the FY09/10 revisions and the pages from the Town's FY2010 budget related to capital improvements are included.

The citizen information list from the adoption hearing is also attached.

As you will note, none of the capital improvements included in the five-year schedule is required to reduce a level of service deficiency, maintain an adopted level of service, meet a level of service after projected growth, or replace a facility to maintain a level of service.

The utilities element of the comprehensive plan explains, on page 8-5, the relationship between Lee County and its water supply facilities and the Town; page 8-8 explains the relationship between Lee County and its sewer service facilities and the Town. The Town is included in Lee County's solid waste franchise area, as explained on pages 8-9 and 8-10. Lee County's 2009 concurrency report does not identify any anticipated problems with meeting its commitments to the Town. The utilities LOS standards of Policy 8-B-1 are being met and deficiencies have not been projected for the five-year planning period.

The stormwater LOS standard provided in Policy 11-B-2 has not been exceeded. The Town is studying options for structural improvements that may help to maintain this standard as sea levels rise, and regulatory options to require improved water management practices in one- and two-family residential areas. These long-term activities have not been identified as necessary to maintain the stormwater LOS standard within the five-year planning period.

The recreation LOS standard provided in Policy 10-D-3 is being met by the Town's Bay Oaks Community Park. The Town assumed ownership and control over this facility in 2009. Development that would result in a deficiency in this standard is not projected.

The transportation LOS standard provided in Policy 7-I-2 was not exceeded during the most recent 12-month period of traffic counts (see page 61 of the Lee County 2009 Concurrency Report, attached) The standard is not projected to be exceeded. The Town is constantly seeking alternative methods to reduce traffic on Estero Boulevard and has committed in Policy 5-A-5 of the coastal management element to maintaining a policy of no increase in the net development capacity island-wide that is allowed under the comprehensive plan.

You may contact me with any questions, or with any needs for additional information.

Sincerely,

Department of Community Development
Town of Fort Myers Beach



Frank Shockey, Ph.D., CFM
Community Development Director
frank@fortmyersbeachfl.gov
Phone: 239-765-0202
Fax: 239-765-0909

Cc: Tracy Suber, Department of Education
Jim Quinn, Department of Environmental Protection
Susan Harp, Department of State
Lawrence Massey, FDOT District One
Ken Heatherington, Southwest Florida Regional Planning Council
Jim Jackson, South Florida Water Management District
Paul O'Connor, Lee County Department of Community Development



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April 29, 2010

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The utilities element of the comprehensive plan explains, on page 8-5, the relationship between Lee County and its water supply facilities and the Town; page 8-8 explains the relationship between Lee County and its sewer service facilities and the Town. The Town is included in Lee County's solid waste franchise area, as explained on pages 8-9 and 8-10. Lee County's 2009 concurrency report does not identify any anticipated problems with meeting its commitments to the Town. The utilities LOS standards of Policy 8-B-1 are being met and deficiencies have not been projected for the five-year planning period.

The stormwater LOS standard provided in Policy 11-B-2 has not been exceeded. The Town is studying options for structural improvements that may help to maintain this standard as sea levels rise, and regulatory options to require improved water management practices in one- and two-family residential areas. These long-term activities have not been identified as necessary to maintain the stormwater LOS standard within the five-year planning period.

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Town of Fort Myers Beach



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Paul O'Connor, Lee County Department of Community Development

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 modify 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 conducted a duly noticed hearing on April 19, 2010, to consider this matter; 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.

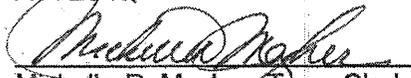
SECTION 5. EFFECTIVE DATE. This ordinance shall take effect immediately.

The foregoing ordinance was enacted by the Town Council upon a motion by Council-member List and seconded by Councilmember Mandel with result was as follows:

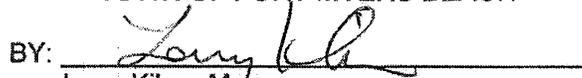
Larry Kiker, Mayor	<u>aye</u>	Bob Raymond, Vice Mayor	<u>aye</u>
Tom Babcock	<u>aye</u>	Jo List	<u>aye</u>
Alan Mandel	<u>aye</u>		

DULY PASSED AND ENACTED this 19th day of April, 2010.

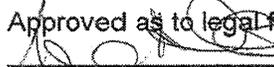
ATTEST:


Michelle D. Mayher, Town Clerk

TOWN OF FORT MYERS BEACH

BY: 
Larry Kiker, Mayor

Approved as to legal form by:


Anne Dalton, Esquire
Town Attorney

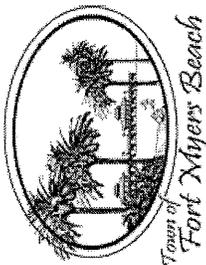


Table 11-7 — Revised Five-Year Schedule of Capital Improvements, FY 09/10 to 13/14

Exhibit A

	Reduce level of service deficiency	Maintain LOS?	Meet future LOS after growth?	Replace facility to maintain LOS?	Replace but not to replace 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:										
Anticipated annual transportation/related revenue for capital improvements:						\$2,767,870	\$0	\$125,000	\$245,000	\$360,000
Anticipated year-end transportation reserves after proposed expenditures:						\$2,209,586	\$125,000	\$120,000	\$115,000	\$110,000
						\$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:										
Anticipated annual revenue for non-transportation capital improvements:						\$1,000,000	\$0	\$1,114,660	(\$770,680)	(\$2,656,020)
Anticipated year-end non-transportation reserves after proposed expenditures:						\$1,804,670	\$1,114,660	\$1,114,660	\$1,114,660	\$1,114,660
						\$0	\$1,114,660	(\$770,680)	(\$2,656,020)	(\$1,541,360)

RESOLUTION OF THE LOCAL PLANNING AGENCY OF THE
TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 2009-17

WHEREAS the existence of the Local Planning Agency (LPA) is mandated by Florida Statutes Section 163.3174 and the specific functions, powers, and duties of the LPA are set forth in Chapter 163, Florida Statutes, the Town of Fort Myers Beach Land Development Code (LDC) Section 34-120, and the Town Comprehensive Plan; and

WHEREAS Policy 11-A-2 of the Comprehensive Plan requires the Town Manager to develop annually a proposed capital improvement program (CIP) which is based on a review of existing Town facilities, level of service standards, current and projected deficiencies, and capital needs as identified in the Comprehensive Plan; and

WHEREAS pursuant to Comprehensive Plan Policy 11-A-2 and LDC Section 34-120(5) the LPA is required to review the proposed CIP on an annual basis and make a recommendation to the Town Council as to whether it is consistent with the Comprehensive Plan; and

WHEREAS following proper notice as required by law at its regularly scheduled meeting of August 11, 2009, the LPA conducted its required review of the Town Manager's proposed 2009-2010 CIP, attached hereto as Exhibit A , and further reviewed the enumeration of the proposed Comprehensive Plan policies for consistency purposes as set forth in the memo of August 11, 2009, from Frank Shockey, Ph.D., Interim Community Development Director, attached hereto as Exhibit A-1, both of which are incorporated herein by reference;

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

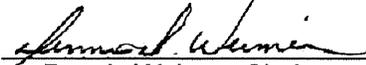
The LPA hereby recommends that the Town Council find that all of the items on attached proposed 2009-2010 CIP are consistent with the Town of Fort Myers Beach Comprehensive Plan.

The foregoing resolution was adopted by the LPA upon a motion by LPA member Van Duzer and second by LPA member Mandel, and upon being put to a vote, the result was as follows:

Dennis Weimer, Chair	<u>aye</u>	Alan Mandel, Vice Chair	<u>aye</u>
Joanne Shamp	<u>nay</u>	Rochelle Kay	<u>nay</u>
Bill Van Duzer	<u>aye</u>	Carleton Ryffel	<u>absent</u>

DULY PASSED AND ADOPTED THIS 11th day of August, 2009.

LPA of the Town of Fort Myers Beach

By: 
Dennis Weimer, Chair

Approved as to legal sufficiency:

By: 
Anne Dalton, Esq., LPA Attorney

Attest:

By: 
Michelle Mayher, Town Clerk

EXHIBIT (A)

**Town of Fort Myers Beach
Capital Improvement Plan
FY 2010 through FY 2015**

Transportation Capital Improvements	FY 09/10 Projected	FY 10/11 Projected	FY 11/12 Projected	FY 12/13 Projected	FY 13/14 Projected
Basin Based Project HMPG 1609	\$ 650,000	\$ -	\$ -	\$ -	\$ -
Stormwater Master Plan Implementation	125,000	-	-	-	-
North Estero Improvements	4,159,556	-	-	-	-
Solid Waste Transfer Station	42,900	-	-	-	-
Transportation/Canals	-	-	-	-	-
Estero Blvd., Safety Project	-	-	-	-	-
Congestion mitigation initiatives	-	-	-	-	-
Side street resurfacing	-	-	-	-	-
Trolley stop improvements	-	-	-	-	-
Alternating lights	-	-	-	-	-
Parking meter improvements	-	-	-	-	-
	1,977,456	0	0	0	0

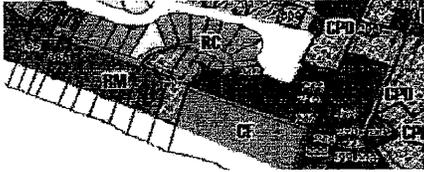
Total of proposed annual expenditures
Transportation reserves carried forward from prior years:
 2,767,870
Anticipated annual transportation & related revenue:
 2,209,586
Anticipated year-end transportation reserve:

Non-Transportation Capital Improvements	FY 09/10 Projected	FY 10/11 Projected	FY 11/12 Projected	FY 12/13 Projected	FY 13/14 Projected
Beach Nourishment	\$ 1,000,000	-	-	-	-
Newton Park	500,297	-	-	-	-
Mound House Improvements	1,163,398	-	-	-	-
Neighborhood landscaping (matching funds for Street trees)	12,500	-	-	-	-
Neighborhood Landscaping	-	-	-	-	-
Office remodeling/Town Hall	-	-	-	-	-
Truck and maintenance crew equipment	-	-	-	-	-
Public dock below Sky Bridge	-	-	-	-	-
Impact fee study	128,475	-	-	-	-
Beach access improvements (restrooms)	-	-	-	-	-
Beach restoration	-	-	-	-	-
Emergency Operations/Communications Trailer	-	-	-	-	-
Land Acquisition	-	-	-	-	-
Capital repairs to Water Utility system	-	-	-	-	-
	2,804,670	0	0	3,000,000	3,000,000

Total of proposed annual expenditures
Reserves carried forward from prior years:
 1,000,000
Anticipated annual other revenue:
 1,804,670
Anticipated year-end transportation reserve:

	\$ 7,782,126
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**Town of Fort Myers Beach
Department of Community Development**



LPA 2009-17
EXHIBIT (A-1)

MEMORANDUM

To: Local Planning Agency
From: Frank Shockey, Interim Community Development Director
Date: August 11, 2009
RE: Capital Improvements Plan FY09/10 Items and Comprehensive Plan
Goals, Policies and Objectives

Although the FY09/10 Capital Improvement Plan contains items that are all noted in the schedule of capital improvements to be adopted in the amendment to the comprehensive plan's Capital Improvements Element, the policy expressing the desire for these projects is also expressed elsewhere in the existing comprehensive plan. The FY09/10 Capital Improvement Plan is consistent with the comprehensive plan because all of the items funded in the proposed FY09/10 budget are identified in the FY09/10 column of Table 11-7 in the Comprehensive Plan. However, the following policies express support for the individual projects:

North Estero Improvements

These improvements to the northern stretch of Estero Boulevard address a number of policies and objectives regarding Estero Boulevard, including **Policies 1-A-1, 7-E-4, 7-H-8, 8-B-1, and Objective 9-A.**

Implementation of Stormwater Master Plan

This item helps to maintain the stormwater LOS under **Policy 11-B-2** and carries out a specific objective in **Objective 9-F.**

Basin Based Project HMPG 1609

This drainage improvement project for older subdivisions with few or no engineered drainage works will help to maintain the stormwater LOS under **Policy 11-B-2**, and will help to address needs for stormwater planning needs identified in **Objectives 9-A through 9-F.**

Solid Waste Transfer Station

The need for this project is related to **Objective 3-A**.

Beach Renourishment

The need for beach renourishment is specifically noted in **Policy 5-D-1** and mentioned in several other locations.

Neighborhood Landscaping

This small expenditure addresses a general intention to beautify the island expressed in **Objective 2-B**.

Mound House

The Town's commitment to the Mound House is discussed throughout Chapter 13 of the Comprehensive Plan and is mentioned specifically in **Policy 11-B-3**.

Newton Park

Like the Mound House, the Newton Property is discussed in Chapter 13, and mentioned specifically in **Policy 11-B-3**.

Beach Access Comfort Stations

The desire to improve beach access amenities is expressed in **Objectives 5-E and 6-H**, and in **Policy 6-A-2**.

**Town of Fort Myers Beach
Fiscal Year 2009-10
Revenue Detail Worksheet**

Department Capital Projects - 13
 Division _____
 Division # _____

#	Computation/Explanation	Amount
Project	No. Estero Improvements	
	South Florida Water Management District	300,000
	FEMA Grant	879,186
	Transfer from Road Impact Fund	500,000
	Transfer from Gas Tax Fund	2,480,370
Project	Stormwater Implementation of Master Plan	
	Transfer from Gas Tax Fund	125,000
Project	Basin Based HMPG 1609	
	Transfer from Gas Tax Fund	162,500
	FEMA (75%)	487,500
Project	Solid Waste Transfer Station	
	Transfer from General Fund	42,900
	<i>Sub-total Transportation</i>	\$ 4,977,456
Project	Beach Renourishment	
	Transfer from Beach Renourishment Fund	1,000,000
Project	Neighborhood Landscape	
	Transfer from General Fund	12,500
Project	Mound House	
	Grants	1,113,831
	Park Impact Fees	49,567
Project	Newton Park	
	Grants	336,297
	Park Impact Fund	164,000
Project	Beach Access Comfort Stations	
	Grants	128,475
	<i>Sub-total non-transportation</i>	\$ 2,804,670
	Total Capital Budget	\$ 7,782,126

County that cause the maximum volume-to-capacity ratio to be exceeded or that affect the maximum volume-to-capacity ratio once exceeded. Permits will only be issued when capacity enhancements and operational improvements are identified and committed for implementation that will maintain the volume-to-capacity ratio on the constrained segment at or below 1.85.

Based on traffic counts for 2008, the highest volume to capacity ratio on a constrained facility was 1.11 on McGregor Boulevard from Winkler Road to Tanglewood Boulevard. Estero Boulevard between Tropical Shores Way and Center Street in the Town of Fort Myers Beach as well as on San Carlos Boulevard (SR 865) from Estero Boulevard to Main Street had a volume to capacity ratio of 1.09. McGregor Boulevard from Tanglewood Boulevard to Colonial Boulevard had a volume to capacity ratio of 1.02 and Estero Boulevard from Voorhis Street to Tropical Shores Way in the Town of Fort Myers Beach had a volume to capacity ratio of 1.00. All other constrained facilities had a volume to capacity ratio less than 1.00. None of these facilities should approach a volume to capacity ratio of 1.85 during the year 2009.

Estero Boulevard

The Town of Fort Myers Beach has adopted a different methodology for measuring the Level of Service on Estero Boulevard. Policy 7-I-2 of the Comprehensive Plan for the Town of Fort Myers Beach states: *“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 Denora Boulevard shall be used for this standard.”*

Data from the 2008 Traffic Counts (PCS #44) shows that the monthly averages were as follows:

MONTH	Average Vehicles/Hour	MONTH	Average Vehicles/Hour	MONTH	Average Vehicles/Hour
January	1223	February	1195	March	1030
April	1098	May	907	June	928
July	916	August	810	September	840
October	897	November	1069	December	1004

Based upon traffic counts for 2008, this standard of 1,300 vehicles per hour was not exceeded in any month in 2008, and will not be exceeded in 2009 during any four (4) calendar months.