

**TOWN OF FORT MYERS BEACH, FLORIDA**

**ORDINANCE NO. 03-13**

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH ENTITLED "FOURTH AMENDMENT TO THE FORT MYERS BEACH COMPREHENSIVE PLAN"; ESTABLISHING PURPOSE AND INTENT; AMENDING CHAPTER 11, CAPITAL IMPROVEMENTS ELEMENT; PROVIDING FOR CONFLICTS; 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 of the town; and

WHEREAS, in the exercise of this authority the Town Council had 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; and

WHEREAS, in the further exercise of this authority the Town Council has adopted a second set of amendments to the Fort Myers Beach Comprehensive Plan through Ordinance No. 01-07; and

WHEREAS, in the further exercise of this authority the Town Council has adopted a third set of amendments to the Fort Myers Beach Comprehensive Plan through Ordinance No. 02-07; and

WHEREAS, the Town Council has determined that certain additional amendments to that plan may be needed and has directed the necessary research and analysis in support thereof; and

WHEREAS, in consideration of these amendments, the Fort Myers Beach Local Planning Agency held a public hearing on April 15, 2003, and the Town Council held its transmittal public hearing on June 2, 2003, at which time it voted to transmit this fourth amendment for review by state, regional, and local agencies; and

WHEREAS, the Florida Department of Community Affairs, by letter dated October 31, 2003, waived the formal review process due to the minor nature of this amendment; and

WHEREAS, pursuant to Section 163.3184, the Town Council scheduled its first public hearing to consider this ordinance on December 8, 2003 and its second and final public hearing on this ordinance and this amendment on December 15, 2003.

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

**SECTION ONE: 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 TWO: AMENDMENT TO CHAPTER 11, CAPITAL IMPROVEMENTS ELEMENT**

The Fort Myers Beach Comprehensive Plan is hereby amended by deleting the five-year schedule of capital improvements (Table 11-7, found on Page 11-22) and by replacing it with a new Table 11-7 as contained in Exhibit A. This amendment is in response to Application 2003-1-TEXT.

**SECTION THREE: CONFLICTS OF LAW**

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 requirements will apply.

**SECTION FOUR: SEVERABILITY**

It is the legislative intent that if any section, subsection, sentence, clause, map, goal, objective, or policy of this ordinance is held to be invalid, unenforceable, or unconstitutional by any court of competent jurisdiction, such portion will be deemed a separate provision, and the remaining provisions of this ordinance will not be affected. It is the legislative intent of the Town Council that this ordinance would have been adopted had such unconstitutional provision not be included therein.

**SECTION FIVE: 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 offered by Councilmember Rynearson who moved its adoption. The motion was seconded by Councilmember Van Duzer and, being put to a vote, the vote was as follows:

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

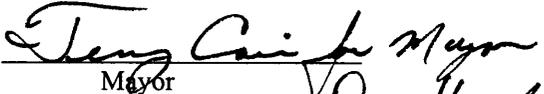
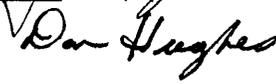
DULY PASSED AND ADOPTED THIS 15<sup>th</sup> DAY OF DECEMBER, 2003

ATTEST:

By: 

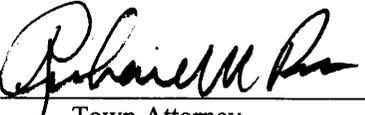
Town Clerk

Town Council of Fort Myers Beach, Florida

By:   


Mayor

APPROVED AS TO FORM BY:

By: 

Town Attorney

# EXHIBIT A

**Table 11-7 — Revised Five-Year Schedule of Capital Improvements, FY 02/03 to 06/07**

	FY 02/03 (Budgeted)	FY 03/04 (Projected)	FY 04/05 (Projected)	FY 05/06 (Projected)	FY 06/07 (Projected)
<b>TRANSPORTATION CAPITAL IMPROVEMENTS:</b>					
Transportation/drainage maintenance, etc. <sup>1</sup>	\$600,000	\$1,500,000	\$300,000	\$50,000	\$150,000
Transportation/canals	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000
Traffic calming (side streets)	\$0	\$0	\$50,000	\$0	\$0
Estero Boulevard streetscaping	\$0	\$300,000	\$1,250,000	\$0	\$0
Estero Boulevard safety project	\$0	\$0	\$0	\$0	\$0
North Estero Paving	\$100,000	\$0	\$0	\$0	\$100,000
Variable pricing congestion traffic project	\$660,000	\$0	\$0	\$0	\$0
“Hidden Pathways” (walking and biking system)	\$50,000	\$100,000	\$0	\$0	\$0
<b>Total of proposed annual expenditures:</b>	<b>\$1,510,000</b>	<b>\$2,000,000</b>	<b>\$1,700,000</b>	<b>\$150,000</b>	<b>\$350,000</b>
Anticipated annual transportation revenue:	\$1,271,923	\$600,000	\$600,000	\$600,000	\$600,000
Anticipated year-end transportation reserves: <sup>2</sup>	\$2,657,431	\$1,257,431	\$157,431	\$607,431	\$857,431
<b>NON-TRANSPORTATION CAPITAL IMPROVEMENTS:</b>					
Office remodeling	\$35,000	\$5,000	\$5,000	\$5,000	\$5,000
Truck	\$16,000	\$0	\$0	\$0	\$0
Generator project	\$50,000	\$0	\$0	\$0	\$0
Land acquisition (Newton property)	\$2,700,000	\$0	\$0	\$0	\$0
Land acquisition (other)	\$250,000	\$200,000	\$200,000	\$200,000	\$200,000
Mound House (house)	\$50,000	\$0	\$0	\$0	\$0
Mound House (dock)	\$30,000	\$0	\$0	\$0	\$0
Matanzas Harbor plan	\$300,000	\$0	\$0	\$10,000	\$0
Beach restoration	\$910,000	\$10,000	\$10,000	\$10,000	\$10,000
Sheriff substation	\$0	\$0	\$0	\$0	\$0
Community pool improvements	\$20,000	\$10,000	\$0	\$10,000	\$0
Neighborhood landscaping (matching funds)	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
Bay Oaks park improvements	\$0	\$0	\$10,000	\$0	\$10,000
<b>Total of proposed annual expenditures:</b>	<b>\$4,371,000</b>	<b>\$235,000</b>	<b>\$235,000</b>	<b>\$245,000</b>	<b>\$235,000</b>
Anticipated annual non-transportation revenue:	\$3,343,000	\$250,000	\$250,000	\$250,000	\$250,000
Anticipated year-end non-transportation reserves: <sup>3</sup>	\$12,049	\$27,049	\$42,049	\$47,049	\$62,049
<b>DOWNTOWN REDEVELOPMENT AGENCY (DRA):</b>					
Phase II Times Square streetscape	\$25,000	\$0	\$0	\$0	\$0
Old San Carlos/Crescent streetscape	\$1,531,107	\$0	\$0	\$0	\$0
Transit improvements (tram service)	\$0	\$0	\$0	\$0	\$0
Activities (recommended by Alliance/Times Sq. Comm)	\$45,000	\$0	\$0	\$0	\$0
Pedestrian refuge/sidewalk at Seafarer’s	\$275,000	\$0	\$0	\$0	\$0
Outside legal/planning services	\$5,000	\$0	\$0	\$0	\$0
<b>Total of proposed annual expenditures:</b>	<b>\$1,881,107</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Anticipated year-end DRA reserves: <sup>4</sup>	\$136,321	\$0	\$0	\$0	\$0

<sup>1</sup> These items are routine recurring maintenance, including periodic road resurfacing (tentatively scheduled for FY 03/04).

<sup>2</sup> Initial transportation reserves were \$2,895,508.

<sup>3</sup> Initial non-transportation reserves were \$1,040,049.

<sup>4</sup> Initial DRA reserves were \$1,838,857, plus \$47,171 Town obligation 02/03, plus \$131,400 from property owner assessments