
SPIKOWSKI PLANNING ASSOCIATES

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MEMORANDUM

TO: Fort Myers Beach Town Council
FROM: Bill Spikowski
DATE: December 13, 2004
SUBJECT: **COMPREHENSIVE PLAN AMENDMENT**
Application 2004-1-TEXT: Annual updating of the five-year schedule of capital improvements (Table 11-7, page 11-22)

This amendment was initiated by the town to comply with a state law that requires annual updating of the Comprehensive Plan's five-year schedule of capital improvements.

RECOMMENDATION: Hold public hearings on December 20 and January 3 and then adopt Ordinance 05-01, which will replace existing Table 11-7 of the Comprehensive Plan (page 11-22, as amended on 3-8-04 by Ordinance 03-13) with the proposed Table 11-7. The attached ordinances reflects all changes made to the 2004/2005 budget and capital improvements program, including reducing the millage from 1.00 to 0.85 and eliminating the \$250,000 line item for land acquisition and the \$30,000 line item for Pink Shell Cottages.

PRIOR ACTIONS ON THIS AMENDMENT:

- **LPA ACTION ON 9-14-04:** The LPA recommend that the Town Council approve this Comprehensive Plan amendment.
- **TOWN COUNCIL ACTION ON 9-27-04:** The Town Council transmitted the proposed Comprehensive Plan amendment to the Florida Department of Community Affairs (DCA), with the understanding that any changes made during the final budget hearings in October would be reflected in the final ordinance. The Town Council also formally introduced the proposed ordinance amending the Comprehensive Plan.
- **DCA ACTION ON 11-12-04:** DCA advised the town that there will be no formal review of this plan amendment and the town may proceed to adopt it.

DISCUSSION: Table 11-7 of the Comprehensive Plan contains the mandatory five-year schedule of capital improvements. It mirrors the content of the five-year schedule of capital improvements that is adopted each year as part of the town's budget.

The first year of this kind of schedule, shown in the first column of figures, always reflects the new budget year; the next four columns contain projections for the next four years. The schedule

is amended each year to delete the first year, make whatever adjustments are needed for the next four years, and add a projection for a new fifth year.

It is a legal duty of the Local Planning Agency to review the proposed capital improvements program each year and determine whether it is consistent with other policies in the Comprehensive Plan, and also to hold public hearings and make recommendations on this and all other proposed amendments to the Comprehensive Plan [LDC 34-120(5), (9),(11)].

Florida law requires that this five-year schedule be formally amended into the Comprehensive Plan, even if it is already being adopted as part of the annual budget. In past years, the Comprehensive Plan amendment has taken place the following year along with other plan amendments. This year we are streamlining the process by conducting the initial Comprehensive Plan amendment hearings concurrently with budget hearings.

The proposed changes to Table 11-7 that will become part of the Comprehensive Plan are the same changes that were made as part of the recent budget process. The capital improvements portion of the budget has simply been reformatted for this amendment to match the existing Table 11-7 of the Comprehensive Plan.

The state requirements for updating this schedule also require a review of the adopted capital improvements element. Because this element is still quite new, there are no significant changes that require changes to the element at this time (other than the updating of Table 11-7).

Revenue assumptions are similar to prior years. Annual revenues dedicated to transportation are assumed to average \$725,000 per year, up from the 2003/2004 assumption of \$650,000 (the town's current share of gasoline taxes and transportation impact fees). For 2004/2005 and 2005/2006,, this revenue is supplemented with additional funds from the operating budget. Initial transportation reserves are \$2,794,234 from these same sources plus the remainder of a federal congestion mitigation grant.

Revenues dedicated to non-transportation capital improvements include initial reserves of \$972,468. Non-recurring revenues for next fiscal year include a tourist tax grant to convert the Newton property into a public park (\$500,000); a grant to complete the harbor plan and anchorage in Matanzas Pass (\$302,500); and a grant for public docks (\$36,000). Recurring revenues are anticipated at \$250,000 annually as in previous years, which includes park impacts of \$20,000 plus funds from the operating budget (\$120,000 for 2004/2005).

The Downtown Redevelopment Authority began the year with reserves of \$506,382, largely the remainder of the favorable settlement obtained with Lee County over prior-year TIF funds. Additional annual revenues include \$92,300 from landowner assessments for the Old San Carlos project and a town contribution of \$67,548 generated by the tax increment fund. One major expense anticipated for the coming fiscal year is \$350,000 for the remaining balance due on the Old San Carlos Boulevard streetscape. The other major expense would be a new pedestrian refuge located in the median, plus a wider bayside sidewalk, both to be constructed on Estero Boulevard between Fifth and Crescent.

ATTACHMENTS:

- *Proposed Ordinance 05-01amending the Comprehensive Plan*
- *Letter from the Florida Department of Community Affairs, dated November 12, 2004*

TOWN OF FORT MYERS BEACH, FLORIDA

ORDINANCE NO. 05-01

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH ENTITLED "SIXTH 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, a second set through Ordinance No. 01-07, a third set through Ordinance No. 02-07, a fourth set through Ordinance No. 03-13, and small-scale map amendments through Ordinance 04-10; and

WHEREAS, the Town Council has determined that an additional amendment to that plan is needed and has directed the necessary research and analysis in support thereof; and

WHEREAS, in consideration of this amendment, the Fort Myers Beach Local Planning Agency held a public hearing on September 14, 2004, and the Town Council held its transmittal public hearing on September 27, 2004, at which time it voted to transmit this sixth amendment for review by state, regional, and local agencies; and

WHEREAS, the Florida Department of Community Affairs, by letter dated November 12, 2004, waived the formal review process due to the minor nature of this amendment; and

WHEREAS, pursuant to Section 163.3184, the Town Council held its first public hearing to consider this ordinance on December 20, 2004 and its second and final public hearing on this ordinance on January 3, 2005.

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 2004-1-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 amendment 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 _____ who moved its adoption. The motion was seconded by Councilmember _____ and, being put to a vote, the vote was as follows:

Bill Thomas	_____
Garr Reynolds	_____
Howard Rynearson	_____
W. H. "Bill" Van Duzer	_____
Don Massucco	_____

DULY PASSED AND ADOPTED THIS 3rd DAY OF JANUARY, 2005.

ATTEST:

Town Council of Fort Myers Beach, Florida

By: _____
Town Clerk

By: _____
Mayor

APPROVED AS TO FORM BY:

By: _____
Town Attorney

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

	<i>FY 04/05</i>	<i>FY 05/06</i>	<i>FY 06/07</i>	<i>FY 07/08</i>	<i>FY 08/09</i>
TRANSPORTATION CAPITAL IMPROVEMENTS:	<i>(Budgeted)</i>	<i>(Projected)</i>	<i>(Projected)</i>	<i>(Projected)</i>	<i>(Projected)</i>
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
Sidestreet 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: ¹	\$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: ²	\$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: ³	\$66,230	\$226,078	\$385,926	\$545,774	\$705,622

¹ Initial transportation reserves were \$2,794,234.

² Initial non-transportation reserves were \$972,468.

³ Initial DRA reserves were \$506,382.



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
"Dedicated to making Florida a better place to call home"

JEB BUSH
Governor

THADDEUS L. COHEN, AIA
Secretary

November 12, 2004

The Honorable Bill Thomas
Mayor, Town of Fort Myers Beach
2523 Estero Boulevard
Fort Myers Beach, Florida 33931

Dear Mayor Thomas:

The Department has conducted a preliminary review of the proposed comprehensive plan amendment for the Town of Fort Myers Beach received on October 5, 2004, DCA Reference No. 04CIE-1.

The Department has determined that the proposed plan amendment need not be formally reviewed for consistency with Chapter 163, Florida Statutes, and Rule 9J-5, Florida Administrative Code. In addition, the Department has not received any recommendation for review from the Southwest Florida Regional Planning Council or any affected person regarding the proposed amendment.

Therefore, the proposed amendment will not be reviewed and the Objections, Recommendations and Comments report will be waived. The local government may proceed to immediately adopt the amendment. After adoption, please submit three copies of the adopted amendment to the Department for our final compliance review, consistent with the requirements of Rule 9J-11.011, F.A.C.

Also, pursuant to Chapter 163.3189(2)(a), F.S., the Department recommends that the Town include the following language in the adoption ordinance regarding the effective date of the adopted amendment: "The effective date of this plan amendment shall be: The date a final order is issued by the Department of Community Affairs finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S.; or the date a final order is issued by the Administration Commission finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S."

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(A) (FA)

The Honorable Bill Thomas
November 12, 2004
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Further, the Department's notice of intent to find a plan amendment in compliance shall be deemed to be a final order if no timely petition challenging the amendment is filed. Any affected person may file a petition with the agency within 21 days after the publication of notice pursuant to Chapter 163.3184(9), F. S.

Please be advised that Section 163.3184(8)(c), Florida Statutes, requires the Department to provide a courtesy information statement regarding the Department's Notice of Intent to citizens who furnish their names and addresses at the local government's plan amendment transmittal (proposed) or adoption hearings. In order to provide this courtesy information statement, local governments are required by law to furnish the names and addresses of the citizens requesting this information to the Department. **Please provide these required names and addresses to the Department *when you transmit your adopted amendment package* for compliance review. In the event no names, addresses are provided, please provide this information as well.** For efficiency, we encourage that the information sheet be provided in electronic format.

This letter should be made available for public inspection. If you have any questions, please contact Bernard O. Piawah, Principal Planner, at (850) 922-1810.

Sincerely,



Charles Gauthier, AICP
Chief, Comprehensive Planning

CG/bp

cc: Mr. Bill Spikowski, Spikowski Planning Associates
Mr. David Burr, Executive Director, Southwest Florida Regional Planning Council