

TOWN OF FORT MYERS BEACH, FLORIDA

ORDINANCE NO. 04-13

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 Rynearson who moved its adoption. The motion was seconded by Councilmember Massucco and, being put to a vote, the vote was as follows:

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

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.

EXHIBIT A