

TOWN OF FORT MYERS BEACH, FLORIDA

ORDINANCE NO. 02-07

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH ENTITLED “THIRD AMENDMENT TO THE FORT MYERS BEACH COMPREHENSIVE PLAN”; ESTABLISHING PURPOSE AND INTENT; AMENDING CHAPTER 10, RECREATION ELEMENT; 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, 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 public hearings on April 16 and May 21, 2002, and the Town Council held its transmittal public hearing on June 17, 2002, at which time it voted to transmit two of the three proposed amendments for review by state, regional, and local agencies; and

WHEREAS, the Florida Department of Community Affairs, by letter dated August 13, 2002, waived the formal review process due to the minor nature of these two amendments; and

WHEREAS, pursuant to Section 163.3184, the Town Council scheduled its first public hearing to consider this ordinance on September 9, 2002 and its second and final public hearing on this ordinance and these amendments on September 23, 2002.

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 10, RECREATION ELEMENT

The Fort Myers Beach Comprehensive Plan is hereby amended by modifying the published text of the Recreation Element as shown in Exhibit A and by modifying the adopted objectives and policies of the Recreation Element as shown in Exhibit B, with new language underlined and deleted language ~~struck through~~. This amendment is in response to Application 2002-3-TEXT.

SECTION THREE: 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 C. This amendment is in response to Application 2002-1-TEXT.

SECTION FOUR: 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 FIVE: 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 SIX: 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 Vice Mayor Terry Cain who moved its adoption. The motion was seconded by Councilmember Howard Rynearson and, being put to a vote, the vote was as follows:

Howard Rynearson	AYE
Daniel Hughes	AYE
Terry Cain	AYE
Garr Reynolds	AYE
Ray Murphy	AYE

DULY PASSED AND ADOPTED THIS 23rd DAY OF SEPTEMBER, 2002

ATTEST: Town Council of Fort Myers Beach, Florida

By: _____
Town Clerk

By: _____
Mayor

APPROVED AS TO FORM BY:

Town Attorney

EXHIBIT A

**ADD TEXT TO PAGE 10-17 OF RECREATION ELEMENT,
as shown by underlining:**

OPPORTUNITIES FOR THE FUTURE

From the previous discussion it is clear that Fort Myers Beach is well endowed with recreational facilities. However, many desirable facilities are lacking. The following sections discuss some of the additional facilities that are frequently discussed or proposed here to stimulate community discussion.

Public Swimming Pool *[no change to this section]*

The Long Estate *[no change to this section]*

Live Theater/Local Playhouse *[no change to this section]*

“Postage Stamp” Neighborhood Spaces *[no change to this section]*

“Oasis” Parks

Members of the community have also suggested creating “oasis” areas at strategic points along Estero Boulevard — at trolley stops, selected beach access points, or other logical points of intersection for pedestrians, bicyclists and motorists. Policy 1-A-3 of the Community Design Element provides for the development of a sidewalk and streetscape plan for all of Estero Boulevard, scaled to people rather than high speed traffic and which, among other things, is intended to build upon the park-like ambiance of the Island and particularly to improve the pedestrian experience. Some of the “oasis” parks could be as simple as a shaded trolley stop with benches, landscaping, bike racks, water fountain; others could be located in areas where it is appropriate to have a mix of public improvements and small commercial facilities such as a coffee shop or news stand. The sidewalk and streetscape plan proposed in the Community Design Element could identify specific locations, size, design/use criteria, and provide estimated costs and recommend phasing for the creation of “oasis” parks.

Newton Estate

The town has an opportunity to purchase the homestead of James and Eleanor Newton, located immediately southeast of Strandview Avenue with 200 feet of frontage on Estero Boulevard and on the Gulf of Mexico. This site has tremendous potential as an “oasis park” while also serving many complementary functions at a single location:

- Public ownership would allow this property to serve as a rest stop and interpretive facility accessible to those walking on the beach. Although there are numerous beach access points, at this part of the island none of them provide more than the most minimal public facilities (usually just physical access, and in some case parking spaces).

- This property would also serve as a stopping point on the “Great Calusa Blueway,” a paddling trail being developed by Lee County. This trail will ultimately run 50 miles from the Imperial River to Boca Grande and is expected to become part of the statewide Florida Greenways and Trails System. The Great Calusa Blueway runs along the bay side of Fort Myers Beach through Matanzas Pass, which is only 1/4-mile from this site with easy access via Mid-Island Marina. This paddling trail provides another link among the environmental, cultural, and historical points of interest that can be experienced by residents and visitors.
- As the Estero Boulevard streetscape plan is implemented through the coming decade, more people will be walking and bicycling the length of Estero Boulevard. This property would serve as a rest stop and point of interest for those traveling along the boulevard.
- This site would provide an additional beach park for the town with simple facilities such as restrooms, picnic areas, trails, and meeting rooms.
- Public ownership can guarantee the preservation of a historic cottage on this site, avoid redevelopment of the site for higher-intensity purposes, and provide a beachfront habitat that will reduce the unacceptably high number of failed sea turtle nesting attempts that have occurred in recent years at this location.

Dog Walk Area *[no change to this section]*

Other Potential Facilities *[no change to this section]*

EXHIBIT B

REVISE/ADD RECREATION ELEMENT POLICIES as follows:

POLICY 10-D-3 The town adopts the following level-of-service standard for community parks: for each 7,500 permanent residents, 1 centrally located recreation complex that includes 2 ballfields, 2 tennis courts, outdoor basketballs courts, play equipment, an indoor gymnasium, and community meeting spaces. Programming shall address all age groups and encompass active recreation, physical improvement, and social, educational, and cultural activities. The town also will maintain a cultural and environmental learning center at the historic Mound House, and contingent on obtaining grant funding for property acquisition, will purchase the Newton estate to serve as an oasis park with interpretive and rest facilities for those traversing Lee County's "Great Calusa Blueway," Estero Boulevard, and the walking trail provided by the public beachfront.

OBJECTIVE 10-F CULTURAL FACILITIES AND PROGRAMS — Achieve a heightened appreciation of the town's recent and ancient history and cultural life.

POLICY 10-F-1 Manage the Cultural and Environmental Learning Center in the historic "Mound House" (formerly known as the Long Estate). Thoroughly analyze the archaeological remains on this site. Continue to pursue acquisition of the Long Estate and assist the foundation that will provide long-term management with funding for start-up costs (with the amount needed to be evaluated annually). Link this facility to other cultural and recreational points of interest by providing appropriate dockage to serve the Great Calusa Blueway paddling trail and water taxis as well as and links to bike and pedestrian paths.

POLICY 10-F-2 Establish a task force on eco/heritage tourism to develop and implement the town's "eco/heritage" program. The task force would work closely with the Marine Resources Task Force to advise the town on appropriate components of the statewide plan of the Governor's Advisory Committee on Eco-Heritage Tourism when adopted.

POLICY 10-F-3 Acquire the beachfront estate of James and Eleanor Newton and operate it as a small community park with close links to the paddling trail in Matanzas Pass, the pedestrian and bicycle facilities on Estero Boulevard, and the adjoining public beach.

OBJECTIVE 10-G PUBLIC ACCESS — Increase the number and quality of public access points to the Gulf beaches and Estero Bay.

POLICY 10-G-1 Maintain or improve existing levels of beach and bay access pursuant to Coastal Management Policies 5-E-1, 5-E-2, and 5-E-3 which provide for the continued maintenance of existing beach access points, and evaluate the need for more parking.

POLICY 10-G-2 Support and participate in Lee County’s “Great Calusa Blueway” paddling trail by making convenient links between the trail and the town’s environmental, cultural, and historical points of interest.

POLICY 10-G-23 Acquire one or more beach access points at the southern end of the island in addition to acquiring the Newton estate (see Policy 10-F-3) for additional public access to the beach and as a mid-island interpretative facility and rest area for the “Great Calusa Blueway” and the natural walking trail that is provided by the continuous beachfront along Estero Island.

OBJECTIVE 10-H NEIGHBORHOOD PARKS — Within five years, begin providing small-scale parks to serve individual neighborhoods and pedestrians.

POLICY 10-H-1 Provide a mechanism for requesting neighborhoods to create and manage a small children’s play area or “visiting” area, as a part of the “hidden paths” and/or “residential streets” programs described in the Community Design Policies 2-A-1 and 2-B-2. Develop a program of guidelines and technical assistance available to requesting neighborhoods. Evaluate the program within two years of initiation and, based on actual demand, and set standards if necessary to regulate the pace and equity of implementation.

POLICY 10-H-2 As provided for in Community Design Policy 2-A-1, facilitate the establishment of a local foundation or community land trust which among other responsibilities, would be responsible for planning and acquiring vacant parcels or easements for the hidden path and “postage stamp” park concept.

POLICY 10-H-3 Provide occasional “oasis” areas (resting places for pedestrians and bicyclists) at selected trolley stops and other strategic locations along Estero Boulevard as a part of the Estero Boulevard Streetscape Plan described in Community Design Policy 1-A-3(iv). The first oasis area shall be the Newton estate at Strandview Avenue (see Policy 10-F-3) which shall be closely linked to the Great Calusa Blueway paddling trail, the public trolleys and sidewalks/bike paths along Estero Boulevard, and to the public beachfront.

Table 11-7 — Revised Five-Year Schedule of Capital Improvements, FY 01/02 to 05/06¹

	<i>FY 01/02 (Budgeted)</i>	<i>FY 02/03 (Projected)</i>	<i>FY 03/04 (Projected)</i>	<i>FY 04/05 (Projected)</i>	<i>FY 05/06 (Projected)</i>
TRANSPORTATION CAPITAL IMPROVEMENTS:					
Transportation/drainage maintenance, etc. ¹	\$300,000	\$250,000	\$1,250,000	\$100,000	\$100,000
Traffic calming (Connecticut Street)	\$0	\$0	\$0	\$100,000	\$100,000
Estero Boulevard streetscaping	\$0	\$300,000	\$1,250,000	\$250,000	\$250,000
Estero Boulevard safety project (paving north end)	\$100,000	\$0	\$0	\$0	\$0
Variable pricing congestion traffic project	\$50,000	\$0	\$0	\$0	\$0
Contribution to DRA project (Old San Carlos Blvd.)	\$200,000	\$0	\$0	\$0	\$0
“Hidden Paths” walking and biking system	\$50,000	\$0	\$0	\$0	\$0
Total of proposed annual expenditures:	\$700,000	\$550,000	\$2,500,000	\$450,000	\$450,000
Anticipated annual transportation revenue:	\$800,000	\$600,000	\$600,000	\$600,000	\$600,000
Anticipated year-end transportation reserves: ²	\$3,985,767	\$4,035,767	\$2,135,767	\$2,285,767	\$2,435,767
NON-TRANSPORTATION CAPITAL IMPROVEMENTS:					
Office equipment	\$86,500	\$10,000	\$0	\$0	\$0
Land acquisition (Newton property)	\$2,000,000	\$0	\$0	\$0	\$100,000
Mound House capital improvements	\$100,000	\$100,000	\$0	\$0	\$0
Times Square improvements	\$100,000	\$0	\$0	\$0	\$0
Public docks	\$30,000	\$15,000	\$0	\$0	\$0
Matanzas Harbor plan	\$15,000	\$0	\$0	\$0	\$0
Beach renourishment	\$800,000	\$10,000	\$10,000	\$10,000	\$10,000
Land acquisition, gulf-front park	\$0	\$0	\$0	\$0	\$0
Community pool improvements & walkway	\$30,000	\$50,000	\$0	\$0	\$0
Neighborhood landscaping (matching funds)	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
Bay Oaks park improvements	\$50,000	\$0	\$0	\$0	\$0
Total of proposed annual expenditures:	\$3,221,500	\$195,000	\$20,000	\$20,000	\$120,000
Anticipated annual non-transportation revenue:	\$2,204,567	\$160,000	\$110,000	\$110,000	\$110,000
Anticipated year-end non-transportation reserves: ³	\$99,789	\$64,789	\$154,789	\$244,789	\$234,789
DOWNTOWN REDEVELOPMENT AGENCY (DRA):					
Phase II Times Square streetscape	\$25,000	\$0	\$0	\$0	\$0
Old San Carlos/Crescent streetscape	\$900,000	\$0	\$0	\$0	\$0
Transit improvements (tram service)	\$0	\$0	\$0	\$0	\$0
Farmers’ market, street performers, festivals	\$9,650	\$0	\$0	\$0	\$0
Outside legal/planning services	\$10,350	\$0	\$0	\$0	\$0
Total of proposed annual expenditures:	\$945,000	\$0	\$0	\$0	\$0
Reimbursement of funds spent in prior years:	\$172,990	\$0	\$0	\$0	\$0
Anticipated annual contribution from Town funds:	\$200,000	\$0	\$0	\$0	\$0
Anticipated year-end DRA reserves: ⁴	\$1,066,079	\$1,066,079	\$1,066,079	\$1,066,079	\$1,066,079

¹ These items are routine recurring maintenance, including periodic road resurfacing (tentatively scheduled for FY 03/04).
² Initial transportation reserves were \$3,885,767.
³ Initial non-transportation reserves were \$1,116,722.
⁴ Initial DRA reserves were \$1,941,888, plus \$42,181 Town obligation 01/02

EXHIBIT C