

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 Councilmember List and seconded by Councilmember Mandel with result was as follows:

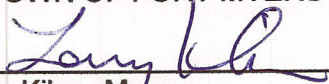
Larry Kiker, Mayor aye
Tom Babcock aye
Alan Mandel aye

Bob Raymond, Vice Mayor aye
Jo List aye

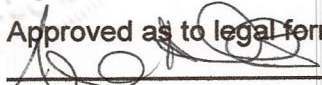
DULY PASSED AND ENACTED this 19th day of April, 2010.

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