



**LOCAL PLANNING AGENCY  
OLD LEE COUNTY COURTHOUSE  
2120 MAIN STREET, FORT MYERS, FL 33901  
BOARD CHAMBERS**

**THURSDAY, MAY 31, 2012  
8:30 AM**

**AGENDA**

1. Call to Order/Review of Affidavit of Publication
2. Pledge of Allegiance
3. Public Forum
4. Approval of Minutes – April 23, 2012
5. Capital Improvement Program
6. Land Development Code Amendments
  - A. [Page Park Amendment](#)
  - B. [Estero Sign Amendment](#)
  - C. [Captiva Amendment](#)
7. New Horizon 2035: Plan Amendments
  - A. [CPA2011-00001 – Capital Improvements](#)
  - B. [CPA2011-00009 – Historic Preservation](#)
8. Other Business
9. Adjournment – Next Meeting Date: Thursday, June 28, 2012

Any person appealing a decision made at this hearing must ensure a record of the proceedings is made. In accordance with the Americans with Disabilities Act, Reasonable Accommodations will be made upon request. If you are in need of a Reasonable Accommodation or would like additional information, please contact Janet Miller at 239-533-8583.

**CPA2011-01  
LEE PLAN  
CAPITAL IMPROVEMENTS  
BOCC SPONSORED  
EAR BASED AMENDMENT  
TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

Publically Sponsored Amendment and Staff Analysis

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**LPA Public Hearing Document  
For the  
May 31<sup>th</sup>, 2012 Public Hearing**

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P.O. Box 398  
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**May 18, 2012**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2011-11**

**Text Amendment**

**Map Amendment**

<b>This Document Contains the Following Reviews</b>	
<input checked="" type="checkbox"/>	<b>Staff Review</b>
	<b>Local Planning Agency Review and Recommendation</b>
	<b>Board of County Commissioners Hearing for Transmittal</b>
	<b>Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report</b>
	<b>Board of County Commissioners Hearing for Adoption</b>

STAFF REPORT PREPARATION DATE: May 18, 2011

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT/REPRESENTATIVE:**

Lee County Board of County Commissioners, represented by Lee County Division of Planning.

**2. REQUEST:**

Amend the Capital Improvements Element of the Lee Plan to incorporate the recommendations of the March 1, 2011 Evaluation and Appraisal Report.

**B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY**

**1. RECOMMENDATION:**

Staff recommends that the Board of County Commissioners *transmit* the proposed amendment to the Capital Improvements Element of the Lee Plan as shown on Attachment 1. The attachment shows the proposed Element in clean codified language along with the latest adopted Capital Improvement Program tables.

## **2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

- The Board of County Commissioners initiated this plan amendment on March 1, 2011, with the adoption of the Evaluation and Appraisal Report.
- The Capital Improvements Element of the Lee Plan is intended to provide for the varied public service and infrastructure needs of the county residents and visitors in an array of public and private resources and facilities.
- The adopted New Horizon 2035 Evaluation and Appraisal Report found that the updated Lee Plan should address issues regarding element clarity, effectiveness, and process.
- The proposed amendments to the Capital Improvements Element are consistent with the Evaluation and Appraisal Report recommendations.
- The proposed amendments meet the statutory requirements of FS 163.3177(3)(a).

## **C. BACKGROUND INFORMATION**

The Capital Improvements Element of the Comprehensive Plan addresses the need to provide, plan, and budget for public services and infrastructure systems within Lee County. The purpose of the element is to ensure that such services and infrastructure systems are provided based upon current and future population demands of the county in accordance with the county's development priorities and budgetary capabilities. The element was originally incorporated into the Lee Plan in 1984, and helps ensure public and private development efforts support the county's quality of life.

The Capital Improvements Element is a required element as defined by Chapter 163.3177(3)(a), Florida Statutes (F.S.). Specifically, the statute states, "The comprehensive plan shall contain a capital improvements element designed to consider the need for and the location of public facilities in order to encourage the efficient use of such facilities and set forth:

1. A component that outlines principles for construction, extension, or increase in capacity of public facilities, as well as a component that outlines principles for correcting existing public facility deficiencies, which are necessary to implement the comprehensive plan. The components shall cover at least a 5-year period.
2. Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities, and projected revenue sources to fund the facilities.
3. Standards to ensure the availability of public facilities and the adequacy of those facilities to meet established acceptable levels of service.
4. A schedule of capital improvements which includes any publicly funded projects of federal, state, or local government, and which may include privately funded projects for which the local government has no fiscal responsibility. Projects necessary to ensure that any adopted level-of-service standards are achieved and maintained for the 5-year period must be identified as either funded or unfunded and given a level of priority for funding.."

These legislative requirements reflect recent changes to Florida's growth management laws that went into effect in 2011 when the State of Florida passed the Community Planning Act (Act) (HB 7207). The Act implemented the most sweeping changes to Florida's growth management laws since the passage of the 1985 Local Government Comprehensive Planning and Land Development Regulation Act, which originally established comprehensive planning as a state required activity. Changes that resulted from the Act included many practices dealing with how local governments plan for future capital improvement projects including changes that:

- Removed the requirement for state-mandated concurrency for transportation, schools, and parks. Allows local governments the discretion to implement as optional levels of service, or delete existing service standards via a plan amendment.
- Maintained the requirements for state-mandated concurrency for potable water, sanitary sewer, disposal of solid waste, and stormwater management.
- Established implementation criteria for local governments that choose to implement transportation concurrency. The criteria addressed issues related to proportionate-share contributions and construction for development orders, rezonings, and land use development permits.
- Replaced the financial feasibility standard with one that requires that Level of Service (LOS) standards be, "reasonably met" through capital improvement planning period which may extend beyond five years.

## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

In light of the changes required as part of the CPA, the 2011 EAR established that the revisions to the Capital Improvements Element needed to address the following findings and recommendations:

- Changes to state requirements regarding LOS, concurrency, and financial feasibility.
- Update policies to focus on more efficient delivery of services, location of facilities that support compact development patterns, and conservation of resources.
- Clearly establish the role of the element and resulting annual Capital Improvements Program, as one of the primary mechanisms by which goals, objectives, and policies of all other elements may be implemented.
- Reorganize the element so that it may be better understood and implemented.

The element has been reorganized with revised objectives and policies in order to address the EAR's findings to prioritize county concerns and needs over state requirements. As such, all goals have been redrafted.

Below are the proposed amendments to the Lee County Capital Improvements Element shown in strikethrough and underline format, with an analysis of the proposed changes.

### **B. GOALS TO BE DELETED**

Staff recommends deleting the following policies in order to address the EAR's findings regarding the element's organizational structure and policy content. Additionally, staff found

that the policy language needed to be redrafted in order to address issues related to changes in local county priorities and state-wide planning requirements.

~~GOAL 95: To provide public facilities and services in Lee County adequate to serve the needs of both existing and future development.~~

~~OBJECTIVE 95.1: CAPITAL IMPROVEMENTS. Ensure the provision of public facilities at the adopted "Minimum Acceptable Levels of Service" by continuing the established capital improvements programming and budgeting system and using those "Minimum Acceptable Levels of Service" as the basic gauge of need and compliance. (Amended by Ordinance No. 94-30)~~

~~POLICY 95.1.1: CAPITAL IMPROVEMENTS PROGRAM (CIP). The county will annually prepare and adopt a Capital Improvements Program showing all public facility development projects to be undertaken during the ensuing five-year period. The county will also annually evaluate and update this Capital Improvements element. The following policies will govern the development of the CIP:~~

~~a. Preparation of the CIP:~~

~~1. Each county department having responsibility for public facilities for which levels of service have been set under this plan will annually review existing facilities, level of service standards, and current and projected deficiencies using the level of service standards contained in this plan, the established minimum geographic units for each facility, and the latest population projections from the Planning Division. Based on identified current and projected deficiencies, each department will prepare a capital improvements program based on facilities needed to meet these deficiencies.~~

~~2. Staff and members of the Board of County Commissioners will communicate with the general public in this process to ascertain the perceived need for each kind of public facility in each commission district and planning district. Ensure that all large CIP projects include broad public education efforts and information exchange as a component for securing public support.~~

~~3. A proposed CIP will be presented by the County Administrator in conjunction with the presentation of the proposed annual operating budget. The proposed CIP will be "balanced" (i.e., proposed expenditures will not be greater than the amount of revenues available to fund the expenditures, on a fund by fund basis). Attached to the proposed balanced CIP will be a report of the projects designated as needed, but which cannot be funded.~~

~~4. The proposed CIP will be reviewed by the Local Planning Agency (LPA), which will consider the consistency of the proposal with the Comprehensive Plan and the effect of the CIP on the growth management objectives of the county.~~

~~5. The proposed CIP, along with the report of the Local Planning Agency, will be reviewed by the Board of County Commissioners. The Board of County Commissioners will by resolution~~

~~adopt a CIP at approximately the same time as the adoption of the annual operating budget. The annual operating budget must be consistent with the first year of the adopted CIP.~~

~~6. The adopted CIP will be reviewed by the Board of County Commissioners during periodic meetings, to be held at least quarterly, called to discuss the status of CIP projects. Staff will be required to provide the Board with a status report on all ongoing CIP projects prior to these meetings. The Board may amend the CIP at these meetings by resolution after making findings of fact that the amendment is consistent with the priorities in this policy and with the Lee Plan in general. Where an amendment to the CIP affects the first year, the annual operating budget will also be amended so as to remain consistent with the CIP.~~

~~7. All estimates of facility or service demand used to develop specific facility plans or any annual update of the capital improvements program will be based on the specific volume and location of demand represented by developments for which local and DRI Development Orders were issued prior to the effective date of this plan, as well as more general estimates of population and land use intensity.~~

~~b. Priorities for the CIP:~~

~~Where needs based on current and/or projected deficiencies exceed revenues projected to be available, projects will be included according to certain priorities which are listed below. In addition, these priorities will be considered in reviewing proposals to amend the CIP.~~

- ~~1. Projects that remove a direct and immediate threat to the public health or safety;~~
- ~~2. Projects that are directed by a court order or otherwise by law;~~
- ~~3. Projects that are essential for the maintenance of the county's investment in existing infrastructure;~~
- ~~4. Projects that remove a service level deficiency that affects developed areas; and~~
- ~~5. Projects that provide new or additional facility capacity for undeveloped Future Urban areas.~~

~~For the purpose of ranking projects in categories 4—5 that fall into the same category, the following will be considered:~~

~~(a) Priorities found elsewhere in this plan, including, but not limited to, Objective 2.3 and Policies 36.1.5, 37.3.3, 38.1.7, 38.2.1, 38.2.4, 38.2.6, 40.2.2, 40.2.6, 76.1.2, and 109.1.3; and~~

~~(b) Whether the facility is needed to satisfy a regulatory or a non-regulatory level of service requirement in this element.~~

~~Other factors that may be considered in ranking projects that are otherwise equal in priority include (in no particular order of significance):~~

~~(a) Whether the project competes with other facilities that have been or could reasonably be provided by other governmental entities or the private sector;~~

- ~~(b) — The revenue generating potential of the project;~~
- ~~(c) — Offers of donations of lands and/or services by the private sector and/or other governmental entities; and~~
- ~~(d) — The size and number of similar projects in each of the county's planning and commission districts.~~
- ~~e. — Effect of the CIP:
  - ~~1. — After adoption of the CIP, no public facility project will be constructed by the county, nor will land be acquired for such project, except in conformity with the adopted CIP.~~
  - ~~2. — It is the intent of this plan to actively pursue the development of any public facility project once it has been included in the CIP. Any CIP amendment which delays or cancels a project should only be made after consideration of:
    - ~~(a) — Changes in facility needs based on more up to date population projections;~~
    - ~~(b) — Changes in revenues compared with previous projections; and~~
    - ~~(c) — Changes in adjusted level of service standards.~~~~
  - ~~3. — The county will consider and may accept dedication of facilities contributed to the county. Where contributed facilities are not provided by county funds, they need not be included in the CIP prior to acceptance. The county may, however, establish procedures for including contributed facilities in the CIP where inclusion in the CIP is a requirement of the Concurrency Management System.~~  
~~(Amended by Ordinance No. 94 30, 00 22, 07 16)~~~~

~~POLICY 95.1.2: CAPITAL FACILITY FINANCING POLICIES.~~

- ~~a. — The use of ad valorem tax revenues for capital facilities should be limited to the General, MSTU, Library, Transportation Improvement, and Capital Improvement Funds, unless required in other funds by bond indenture agreements or by the terms of municipal service taxing/ benefit units. Where a project may be funded from ad valorem tax revenues and other sources (except impact fees), other sources should be used before ad valorem tax funds are used.~~
- ~~b. — The use of gas tax revenues should be limited to the Transportation Improvement Fund, unless required in other funds by bond indenture agreements.~~
- ~~c. — The use of sales tax revenues for capital facilities should be limited to the General and MSTU Funds, unless required in other funds by bond indenture agreements.~~
- ~~d. — The use of revenues which have been pledged to bondholders must conform in every respect to bond covenants which commit those revenues.~~



e. — ~~The county should annually prepare revenue estimates to provide information about revenue sources available to support capital facility construction.~~

f. — ~~Staff will prepare estimates of the operating and maintenance costs of each CIP project along with the capital costs of each facility.~~

g. — ~~The county should actively seek grant funds from federal, state, and other sources where available and when appropriate for capital facility construction. Consideration will be given to limitations (including operating restrictions) involved in such grants.~~

h. — ~~The county should investigate the feasibility of charging user fees to offset the cost of each new CIP project for which user fees could reasonably and legally be collected.~~

i. — ~~Capital Improvement Funds will be anticipated at millages which will generate sufficient revenue to make all required payments.~~

j. — ~~The county should allocate county wide revenues only to facilities which provide services to the entire county. Where benefits are limited to a specific area or function; revenues derived from that geographical area or function should be used to the maximum extent feasible.~~

k. — ~~A reserve for contingency of not less than 3% nor more than 10% of the fund total should be budgeted in each capital fund. These funds should be available for reallocation by the Board as needed during the year to fund unexpected increases in capital costs and/or to fund additional projects which could not be anticipated in the annual CIP.~~

l. — ~~A reserve for cash flow will be budgeted in any fund which requires monies to be carried forward into the following year to support needed expenditures until sufficient current revenues are received, but in no case will exceed the projected cash needs for 90 days or 20% of the fund budget, whichever is greater.~~

m. — ~~The county should prepare an annual analysis of financial condition. This analysis will include consideration of capital facility financing needs and revenues available to finance such needs.~~

n. — ~~Capital Project budgets will only be altered in one of two ways:~~

1. — ~~Administrative approval of transfer of funds to reserves for projects funds not required for authorized expenditures; or~~

2. — ~~Board approval of transfer of funds from reserves to increase a project budget and concurrently revise the 5 year Capital Improvements Program.~~

o. — ~~At the end of each fiscal year, unexpended fund balance at the project level in each fund will be carried over to the subsequent fiscal year budget in an amount equal to the prior year's unexpended project budget. Any unexpended fund balance in excess of project budget will be~~

~~redistributed to fund other capital obligations, if necessary. The excess fund balance will be treated as capital reserves to be allocated in subsequent fiscal years.~~

~~p. The county will not limit the use of revenue bond funded projects to a specified percentage of total debt. The county will address the use of debt financing in a comprehensive manner which precludes establishing limitations on the use of revenue bonds or other forms of debt financing.~~

~~q. The county will not limit the ratio of total debt service to total revenues to any specified amount.~~

~~r. The county will not limit the ratio of total capital indebtedness to the property tax base. Currently Lee County has no debt financing that relies on property taxes as its source of revenue. (Amended by Ordinance No. 94-30, 00-22)~~

~~POLICY 95.1.3: MINIMUM ACCEPTABLE LEVEL OF SERVICE STANDARDS. Level of service (LOS) standards will be the basis for planning the provision of required public facilities within Lee County. Some of these standards will be the basis for determining the adequacy of public facilities for the purposes of permitting new development. The "Minimum Acceptable Level of Service" will be the basis for facility design, for setting impact fees, and (where applicable) for the operation of the Concurrence Management System (CMS).~~

~~Two classes of standards are established. "Regulatory" standards are those which apply to facilities identified in state law as being essential to support development. These consist of facilities for the provision of public schools, potable water, sanitary sewer, disposal of solid waste, stormwater management, community and regional parks, and transportation. (It is the intent of this element that these standards will be the same as those established in the various relevant plan elements. If there are discrepancies between standards contained in the elements and standards as set forth herein, the standards as set forth herein will govern.) The second class, "non-regulatory" standards, are those which apply to other facilities for which the county desires to set standards for its own use; compliance with these standards will not be a requirement for continued development permitting.~~

#### ~~REGULATORY STANDARDS~~

##### ~~1. Potable Water Facilities:~~

###### ~~Minimum Acceptable Level of Service:~~

~~Within certificated, franchised, or designated service areas only: supply and treatment capacity of 250 gallons per day per Equivalent Residential Connection (ERC) for the peak month, except that facilities serving only mobile home residential structures must have a capacity of 187.5 gallons per day, and facilities serving only travel trailer residential structures must have a capacity of 150 gallons per day. Where a private water utility has provided an alternate standard for application within its certificated or franchised area, and that standard has been adopted into this comprehensive plan, that will be the standard to be used for concurrence management in the respective certificated or franchised area.~~

##### ~~2. Sanitary Sewer Facilities:~~

~~———— Minimum Acceptable Level of Service:~~

~~Within certificated, franchised, or designated service areas only: average treatment and disposal capacity of 200 gallons per day per Equivalent Residential Connection (ERC) for the peak month, except that facilities serving only mobile home residential structures must have a capacity of 150 gallons per day, and facilities serving only travel trailer residential structures must have a capacity of 120 gallons per day. Where a private sewer utility has provided an alternate standard for application within its certificated or franchised area, and that standard has been adopted into this comprehensive plan, that will be the standard to be used for concurrency management in the respective certificated or franchised area.~~

~~3. ——— Facilities for Disposal of Solid Waste:~~

~~———— Minimum Acceptable Level of Service:~~

~~———— Disposal facility capacity for 7 pounds of waste (or equivalent volume) per day per capita~~

~~4. ——— Stormwater Management Facilities:~~

~~———— Minimum Acceptable Level of Service: INTERIM~~

~~(a) — Existing Infrastructure/Interim Standard — The existing surface water management system in the unincorporated areas of the county will be sufficient to prevent the flooding of designated evacuation routes (see Map 15) from the 25 year, 3-day storm event (rainfall) for more than 24 hours.~~

~~(b) — Six Mile Cypress Watershed — The level of service standard for the Six Mile Cypress Watershed will be that public infrastructure remains adequate such that floor slabs for all new private and public structures which are constructed a minimum of one (1) foot above the 100-year, 3-day storm event flood plain level for Six Mile Cypress Watershed will be safe from flooding from a 100 year, 3 day storm event (rainfall). The 100 year level and watershed boundaries are as established in Volume IV of the Six Mile Cypress Watershed Plan.~~

~~(c) — Regulation of Private and Public Development — Surface water management systems in new private and public developments (excluding widening of existing roads) will be designed to SFWMD standards (to detain or retain excess stormwater to match the predevelopment discharge rate for the 25 year, 3-day storm event [rainfall]). Stormwater discharges from development must meet relevant water quality and surface water management standards as set forth in Chapters 17-3, 17-40, and 17-302, and Rule 40E-4, F.A.C. New developments will be designed to avoid increased flooding of surrounding areas. These standards are designed to minimize increases of discharge to public water management infrastructure (or to evapotranspiration) that exceed historic rates, to minimize change to the historic hydroperiod of receiving waters, to maintain the quality of receiving waters, and to eliminate the disruption of wetlands and flow ways, whose preservation is deemed in the public interest.~~

~~5. ——— Parks and Recreation Facilities:~~

~~———— Minimum Acceptable Level of Service:~~

~~(a) — Regional Parks — 6 acres of developed regional park land open for public use per 1000 total seasonal county population.~~

~~(b) — Community Parks — 0.8 acres of developed standard community parks open for public use per 1000 permanent population, unincorporated county only.~~

6. ~~Roadway Facilities:~~

~~The minimum acceptable peak hour, peak season, peak direction roadway levels of service will be as follows:~~

<del>Peak Hour/Peak Season/Peak Direction</del>	
<del>State &amp; County Maintained Roads (Excluding FHHS, SIS and TRIP Roads)</del>	
<del>Expressways (Limited Access Facilities)</del>	<del>D</del>
<del>Controlled Access Arterials</del>	<del>E</del>
<del>Arterials</del>	<del>E</del>
<del>Major Collectors</del>	<del>E</del>
<del>Minor Collectors</del>	<del>E</del>
<del>FHHS Roads (1)</del>	
<del>I 75</del>	
<del>Collier County to SR 78</del>	<del>D</del>
<del>SR 78 to Charlotte County</del>	<del>C</del>
<del>SR 80 (Palm Beach Boulevard)</del>	
<del>I 75 to Werner Dr.</del>	<del>D</del>
<del>Werner Dr. to Hendry County</del>	<del>C</del>
<del>SIS Roads</del>	
<del>SR 82 (Immokalee Road)</del>	
<del>Lee Boulevard to Commerce Lakes Dr.</del>	<del>D</del>
<del>Commerce Lakes Dr. to Hendry County</del>	<del>C</del>
<del>Airport Connector</del>	
<del>I 75 to Ben Hill Griffin Parkway</del>	<del>D</del>
<del>TRIP Funded Roads</del>	
<del>Colonial Boulevard</del>	
<del>I 75 to Lee Boulevard</del>	<del>D</del>
<del>Imperial Parkway</del>	
<del>E. Terry Street to Bonita Bill Dr.</del>	<del>D</del>
<del>Six Mile Cypress Parkway</del>	
<del>Daniels Parkway to Winkler Avenue Extension</del>	<del>D</del>

~~(1) The County may seek variances to the level of service of standards for the FHHS facilities as authorized under Section 120.542, F.S. If granted, the level of service standards for I 75 and SR 80 will be as approved by FDOT in the Order Granting Petition for Variance.~~

~~Due to scenic, historic, environmental, aesthetic, and right-of-way characteristics and considerations, Lee County has determined that certain roadway segments will not be widened. Therefore, reduced peak hour levels of service will be accepted on those constrained roads within unincorporated Lee County as a trade off for the preservation of the scenic, historic, environmental, and aesthetic character of the community. These constrained roads are defined in Table 2(a). Growth on those constrained roads will be permitted only within the volume-to-capacity (v/c) ratios established in this plan and only if consistent with the Operational Improvement Program for those constrained roads.~~

~~The minimum acceptable level of service as specified above for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is subject to Policy 14.2.1 and Policy 14.2.2.~~

~~For minimum acceptable levels of service determination, the peak season, peak hour, peak direction condition will be defined as the 100th highest volume hour of the year in the predominant traffic flow direction. The 100th highest hour approximates the typical peak hour during the peak season. Peak season, peak hour, peak direction conditions will be calculated using K-100 factors and "D" factors from the nearest, most appropriate county permanent traffic count station.~~

~~(Amended by Ordinance No. 07-09, 10-36)~~

#### ~~7. — Public School Facilities~~

~~The following Level of Service (LOS) standards for public schools are based upon Permanent Florida Inventory School Houses (FISH) capacity:~~

~~(a) — Elementary Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.~~

~~(b) — Middle Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.~~

~~(c) — High Schools: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.~~

~~(d) — Special Purpose Facilities: 100% of Permanent FISH Capacity as adjusted by the School Board annually to account for measurable programmatic changes.~~

~~(Added by Ordinance No. 08-17, Amended by Ordinance 08-27)~~

#### ~~NON REGULATORY STANDARDS~~

#### ~~8. — Recreation Facilities:~~

~~(a) — Community Recreation Centers — 250 square feet per 1000 persons in unincorporated county only.~~

~~(b) — Boat Ramps — One boat ramp lane with adequate parking per 35,000 population (county-wide).~~

~~(c) — Water (Beach) Accesses — Retain current inventory, and develop 3 existing water accesses per year.~~

#### ~~9. — Libraries:~~

~~Maintain existing per-capita inventory; provide 1.6 items and .274 square feet of library space per capita (permanent residents).~~

#### ~~10. — Emergency Medical Service:~~

~~3.18 advanced life support ambulance stations per 100,000 population with a five and one half (5 1/2) minute average response time.~~

~~(Amended by Ordinance No. 91-19, 92-35, 94-30, 99-15, 00-08, 00-22, 02-02, [Partially] Renumbered by Ordinance No. 08-17)~~

~~POLICY 95.1.4: DESIRED FUTURE LEVEL OF SERVICE STANDARDS. For certain facilities, a second LOS standard, a "Desired Future Level of Service," is set forth. These standards represent a community goal of higher levels of public service and facility provision than can be achieved with current resources. It is the intent of Lee County to achieve these levels of facility provision by the dates prescribed in this policy. However, failure to achieve these goals will not halt the issuance of development orders under the Concurrency Management System.~~

~~1. Stormwater Management Facilities:~~

~~To be established basin by basin subsequent to the county-wide surface water management master plan. Future service standards can only be finalized upon the completion of the basin studies and will be based upon providing a defined level of flood protection, balanced with the protection of natural flow ways and associated wetland systems.~~

~~The following additional standards are hereby established for the Six Mile Cypress Watershed:~~

~~• The Six Mile Cypress Slough and its major tributaries as identified in the Six Mile Cypress Watershed Plan (February 1990) must accommodate the associated discharge from the 25-year, 3-day storm event (rainfall). (Ref: Six Mile Cypress Watershed Plan (February 1990)—Volume II, page 10-5.)~~

~~• Water quality must be improved in accordance with EPA's NPDES and Rule 17-40 F.A.C. criteria for stormwater discharges.~~

~~2. Parks and Recreation Facilities:~~

~~a. Regional Parks:~~

~~By 1998, Lee County will provide 8 acres of improved regional park land open for public use per 1000 total seasonal population for all of Lee County.~~

~~b. Community Parks:~~

~~By 1996, Lee County will provide 1.75 acres of improved standard community parks open for public use per 1000 unincorporated Lee County permanent population; by September 30, 1998 the county will increase this to 2.0 acres of improved standard community parks open for public use per 1000 unincorporated Lee County permanent population.~~

~~3. Libraries:~~

~~2 items per capita (permanent residents) and .424 square feet of space per capita in 2000.  
(Amended by Ordinance No. 91-19, 93-25, 94-30, 98-09, 00-22)~~

~~POLICY 95.1.5: In accordance with Section 9J 5.016(4)(a)1., Florida Administrative Code, Table 3 contains a schedule of capital improvements, extracted from the most recently~~

~~adopted Lee County Capital Improvements Program. This schedule provides, by operating department and type of improvement, a list of projects identified by project number and descriptive name, with the proposed annual budget and five year total expenditures. Table 3A provides the location of the project by Planning District, the plan criteria by CIE priority numbers (from Policy 95.1.1(b)), and specific references to the Lee Plan policies which require or encourage the proposed capital project. (Amended by Ordinance No. 94 30)~~

~~———— POLICY 95.1.6: In accordance with Section 9J 5.016(4)(a)2., Florida Administrative Code, Table 3 is hereby provided as the required list of projected costs and revenue sources by the type of public facility. Additional information may be obtained by consulting the annual update of the Lee County Capital Improvements Program or the Lee County annual fiscal year budget document. (Amended by Ordinance No. 94 30)~~

~~———— OBJECTIVE 95.2: CONCURRENCY MANAGEMENT SYSTEM. Maintain a "Concurrency Management System" (CMS) within the development regulations in accordance with F.S. 163.3202. The CMS will ensure that no development permits will be issued unless the established regulatory level of service requirements are met or will be met as needed to serve the development. (Amended by Ordinance No. 94 30, 00 22)~~

~~———— POLICY 95.2.1:~~

~~———— a. The purpose of the CMS will be to ensure that no development permit is issued unless the facilities necessary to serve the development are in place and have adequate capacity as defined by the adopted level of service standard. Only those facilities for which "regulatory" standards are established will be incorporated in the CMS.~~

~~———— b. The CMS will consider:~~

~~———— 1. The service actually provided by the type of facility and the factors which contribute to the adequacy of that service;~~

~~———— 2. The proximity and/or accessibility of the service in relation to the site of the individual development permit under consideration; and~~

~~———— 3. The type of land use proposed and the density or intensity of use.~~

~~———— c. The CMS will include a review and appeal process to ensure adequate due process for any situation where operation of the CMS results in the denial of permission to make reasonable beneficial use of the land in question. Under this process variances may be issued, but will be limited to allow only such development rights as are necessary to avoid the unconstitutional taking of private property without due process of law.~~

~~———— d. In administering the CMS, the estimated (remaining) capacity of any specified facility will be adjusted to take into account the dormant demand represented by land for which local or DRI Development Orders were issued prior to the effective date of this plan, and by any land the development of which is exempt from the requirements of the Land Development Code. (Amended by Ordinance No. 94 30, 00 08, 00 22)~~

~~———— OBJECTIVE 95.3: OTHER FINANCING POLICIES. Establish a broad-based system of revenue regulations that ensure that new development pays at least 90% of the capital costs of the public infrastructure directly attributable to that new development. (Amended by Ordinance No. 94-30)~~

~~———— POLICY 95.3.1: Impact fees for and/or fees in lieu of private provision of designated public facilities will be set to capture a substantial proportion of the full and real cost of the designated facility, and will be reviewed and updated regularly. (Amended by Ordinance No. 00-22)~~

~~———— POLICY 95.3.2: Lee County will assist any duly constituted public agency within its boundaries, at that agency's request, in developing an impact fee program to offset the impacts of new growth on that agency or jurisdiction's capital or facility requirements. (Amended by Ordinance No. 00-22)~~

~~———— OBJECTIVE 95.4: FLORIDA'S TENTH UNIVERSITY. Recognize the unique advantages and obligations which accompany the development and maturation of Florida's Tenth University. (Added by Ordinance No. 92-47)~~

~~———— POLICY 95.4.1: Upon completion of the Conceptual Master Plan required by Policy 18.1.9 the Capital Improvements Element and Capital Improvement Program will be amended to reflect the unique obligations which will accompany the development and maturation of Florida's Tenth University. (Added by Ordinance No. 92-47, Amended by Ordinance No. 00-22)~~

~~———— POLICY 95.4.2: The infrastructure improvements necessitated by Florida's Tenth University which will require the expenditure of public funds will be consolidated, as a package, for public review and comment prior to amending the Capital Improvements Element. (Added by Ordinance No. 92-47, Amended by Ordinance No. 00-22)~~

~~———— OBJECTIVE 95.5: FIVE YEAR SCHEDULE OF SCHOOL DISTRICT CAPITAL IMPROVEMENTS. The five year schedule of capital improvements will include those projects necessary to address future needs of existing and anticipated school enrollment. The Capital Improvements Plan will set forth a financially feasible public school facilities program, in coordination with the school board that demonstrates that the adopted level of service standards will be achieved and maintained. (Added by Ordinance No. 08-17)~~

~~———— POLICY 95.5.1: The County will annually incorporate into the Capital Improvements Element the School District's annually adopted Five-Year Capital Facilities Plan. The County adopts by reference the Lee County School District 2008-2009 Work Plan adopted by the Lee County School District on September 23, 2008. (Added by Ordinance No. 08-17; Amended by Ordinance No. 08-27)~~

~~———— POLICY 95.5.2: The County, in conjunction with the School District, will annually review the Public School Facilities Element and maintain a long-range public school facilities map series, including the existing schools and ancillary facilities and the planned general~~



~~location of schools and ancillary facilities for the five year planning period and the long range planning period. (Added by Ordinance No. 08-17)~~

~~—— POLICY 95.5.3: The County and the School District will coordinate and share information relating to existing and planned public school facilities.. (Added by Ordinance No. 08-17)~~

~~—— POLICY 95.5.4: The County will participate in the preparation of the School District's annual update to the School District's five year facility work program. The County will coordinate with the School District and municipalities in the preparation of a financially feasible public capital facilities program as defined in section 163.3164, F.S. (Added by Ordinance No. 08-17)~~

### **C. GOALS TO BE ADDED**

The Capital Improvements Element provides a framework for planning, constructing, and financing public services and infrastructure within Lee County. This is achieved by examining the costs, priorities, and needs for service and facilities, the county's fiscal capabilities, and legal requirements. The county establishes financial policies to guide improvements and a capital improvement program that defines the budget and time frame for project implementation. The Capital Improvements Element ensures public services and infrastructure projects support the county's planning and development priorities.

Staff recommends adding the above intent statement in order to address the EAR's finding regarding the need to better define and articulate the purpose of each element.

#### **GOAL 1: Highly Effective Capital Improvements System.**

Provide for the needs and demands of the public through the delivery of highly valued, well managed, and fiscally responsible public services and infrastructures system.

Staff recommends that the above goal be added to direct the provision and planning of highly effective and cost efficient public services as required by FS 163.3177(3)(a).

**OBJECTIVE 1.1: Public Service and Infrastructure Standards.** Ensure public services and infrastructure improvement practices consider county priorities, fiscal demands, and development needs. Capital improvements will be based upon:

- a. Adopted Levels of Service (LOS);
- b. Coordination of facility improvements, capacity increases, LOS standards, fiscal planning, and budgeting processes;
- c. Assurance that future development shares responsibility for facility improvements, maintenance costs, and future service demands; and
- d. Other county priorities related to sustainability, economic development, livability, strong connections, and community character.

**POLICY 1.1.1:** Implement regulatory and non-regulatory level of service standards to meet the public service and infrastructure needs of the county. The minimum acceptable LOS will be the basis for facility design, for setting impact fees, and operation of the Concurrency Management System.

- a. Regulatory standards are identified in state law and deemed essential to support development. Regulatory standards apply to facilities that provide potable water, sanitary sewer, disposal of solid waste, and stormwater management, and;
- b. Non-regulatory standards are important to optimizing the county's quality of life for which the county desires to establish standards for its own use; compliance with non-regulatory standards is not a requirement for development permitting. Non-regulatory standards apply to facilities for transportation, public schools, regional and community parks, boat ramps, evacuation time, and shelters.

**POLICY 1.1.2:** The following regulatory LOS standards will be maintained as growth occurs in the county.

- a. Potable Water – supply and treatment capacity within certificated, franchised, or designated service areas:
  1. Average Daily Flow of 250 gallons per Equivalent Residential Connection (ERC) for the peak month;
  2. Average Daily Flow of 200 gallons per unit for the peak month for mobile home residential structures; and
  3. Average Daily Flow of 100 gallons per unit for the peak month for travel trailer residential structures.
- b. Sanitary Sewer – treatment and disposal capacity within certificated, franchised, or designated service areas:
  1. Average Daily Flow of 200 gallons per ERC for the peak month;
  2. Average Daily Flow of 160 gallons per unit for the peak month for mobile home residential structures; and
  3. Average Daily Flow of 80 gallons per unit for the peak month for travel trailer residential structures.
- c. Solid Waste:
  1. 7 pounds (or equivalent volume) per capita per day.
- d. Stormwater Management:
  1. Existing Infrastructure – The existing surface water management system in the unincorporated areas of the county is expected to prevent the flooding of designated evacuation routes from the 25-year, 3-day storm event or rainfall for more than 24 hours;
  2. Six Mile Cypress Watershed - The floor slabs for all new private and public structures which are constructed a minimum of one (1) foot above the 100-year,

3-day storm event flood plain level will be safe from flooding from a 100-year, 3-day storm event (rainfall). The 100-year flood plain level and watershed boundaries are as established in Volume IV of the Six Mile Cypress Watershed Plan;

3. The Six Mile Cypress Slough and its major tributaries as identified in the Six Mile Cypress Watershed Plan (February 1990) must accommodate the associated discharge from the 25 year, 3-day storm event (rainfall). [Ref: Six Mile Cypress Watershed Plan (February 1990) -Volume II, Pages 10-5.]
4. A North Fort Myers Surface Water Management Plan has been developed in March 2010 and has been subsequently adopted by the Board of County Commissioners. The plan covers a 21-watershed area between US 41 and SR 31, north of the Caloosahatchee River. The proposed level of service for this area is as follows:
  - County roads shall meet or exceed a 5-year, 24-hour storm event
  - Evacuation routes shall meet or exceed a 25-year, 3-day storm event
  - Major collectors and arterial roadways shall have no more than 6 inches of water for a 25-year, 3-day storm event
  - Finished floor elevations of structures shall meet or exceed a 100-year, 3-day storm event
5. Gator Slough, Yellow Fever Creek, Yellow Fever Creek-East Branch, Powell Creek, Billy Creek, Whiskey Creek, Deep Lagoon, Cow Creek, Hendry Creek, Ten Mile Canal, and Imperial River Watersheds.
6. Designated impaired water bodies will be improved towards State and Federal water quality criteria in accordance with the Total Maximum Daily Load and NPDES programs.

The level-of-service standard for the above watersheds will be that all arterial roads at their crossing of the trunk conveyances, as referenced in the Lee County Surface Water Management Master Plan, will be free of flooding from the 25-year, 3-day storm event (rainfall). This standard will not apply to Chiquita Boulevard because it is located within the City of Cape Coral.

Floor slabs for all new private and public structures which are constructed a minimum of one (1) foot above the 100-year, 3-day storm event flood plain level will be safe from flooding from a 100-year, 3-day storm event (rainfall).

**POLICY 1.1.3:** The following non-regulatory LOS standards will be maintained as growth occurs in the county.

a. Multi-modal Transportation Facilities:

1. The LOS for transportation facilities will be established through an assessment of all transportation modes including roadway, bike, pedestrian, and transit capacity

and service volumes consistent with the standards established in the Transportation Element. (To be updated upon completion of the Transportation Element)

2. The following transportation facilities have a LOS standard “C”:
    - a) I-75: SR 78 to Charlotte County border;
    - b) SR 80: Werner Drive to Hendry County border; and
    - c) SR 82: Commerce Lakes Drive to Hendry County border.
  3. The following roadways segments have a LOS standard “D”:
    - a) Expressways (limited access facilities);
    - b) I-75: Collier County to SR 78;
    - c) State Road 80 (Palm Beach Boulevard): I-75 to Werner Drive;
    - d) State Road 82: Lee Boulevard to Commerce Lakes Drive;
    - e) Airport Connector: I-75 to Ben Hill Griffin Parkway;
    - f) Colonial Boulevard: I-75 to Lee Boulevard;
    - g) Imperial Parkway: E. Terry Street to Bonita Bill Drive; and
    - h) Six Mile Cypress Parkway: Daniels Parkway to Winkler Avenue.
  4. The following roadways segments have a LOS standard “E”:
    - a) Controlled access arterials;
    - b) Arterials;
    - c) Major collectors; and
    - d) Minor collectors.
  5. The minimum acceptable LOS on Pine Island Road between Burnt Store Road and Stringfellow Road is “D” on annual average peak hour and “E” on a peak season, peak hour basis.
- b. School Facilities:
1. Elementary Schools – 100% of Permanent Florida Inventory of School Houses (FISH) Capacity;
  2. Middle Schools – 100% of Permanent FISH Capacity;
  3. High Schools – 100% of Permanent FISH Capacity; and
  4. Special Purpose Facilities – 100% of Permanent FISH Capacity.
- c. Parks:
1. Regional Parks - 8 acres of regional parks per 1,000 residents based on the total Lee County permanent and seasonal population; and
  2. Community Parks - 2 acres of community parks per 1,000 residents based on the total Lee County permanent population.
  3. Boat Ramps - 1 boat ramp lane with adequate parking for vehicles with boat trailers for every 12,500 of total county population.

Staff recommends the above objective and set of policies be added to the Lee Plan in order to address changes in state growth management requirements regarding regulatory LOS standards as reflected in FS 163.3177(3)(a). Additionally, the objective and policies continue to provide

for local needs and concerns by establishing non-regulatory LOS standards as allowed by FS 163.3177(1).

**OBJECTIVE 1.2: County Planning and Budgeting Process.** Establish a highly effective capital improvements system through a planning and budgeting process that addresses public services and infrastructure concerns in a comprehensive, collaborative, and transparent manner.

**POLICY 1.2.1:** As part of the capital planning and budgeting process, utilize the following project criteria to evaluate and prioritize proposed capital improvements for inclusion in the Capital Improvement Program (CIP):

- a. Priority 1: Directed by a court order or otherwise by law;
- b. Priority 2: Removes a direct and immediate threat to the public health or safety;
- c. Priority 3: Essential for the maintenance and support of county investments in existing infrastructure;
- d. Priority 4: Projects to address regulatory LOS deficiencies; and
- e. Priority 5: Projects to address non-regulatory LOS deficiencies; and
- f. Priority 6: Consistency with county planning and development priorities regarding sustainability, economic development, livability, strong connections, and community character.

**POLICY 1.2.2:** Establish a capital improvement budgeting process that incorporates issues related to sustainability and complete streets. Such a process will:

- a. Ensure a transparent, public process that takes stakeholder input into account from the beginning to the end of the process.
- b. Delineate a clear decision-making process for staff, consultants, and stakeholders that promotes collaboration and a holistic approach at all stages of the process.
- c. Prioritize projects and document the rationale/tradeoffs of recommendations using Complete Streets Evaluation Tools; and
- d. Creatively address community issues and improve the use of limited resources through a collaborative planning process that allows for the flexibility needed to work across departments to meet county goals.

**POLICY 1.2.3:** Employ a clear decision-making capital improvements planning and budgeting process that promotes collaboration, stakeholder input, transparency, and accountability at all stages of the process. This process will be coordinated with interdepartmental project teams and appropriate advisory panels and consider:

- a. Adopted LOS and current and projected deficiencies;
- b. Project operation, construction, and capital costs;

- c. Facility needs and infrastructure demands based upon facility location districts, service volume, demand, location, land use intensity and density, current development orders, and location of the identified public facility; and
- d. County annual operating budget and revenue projections.
- e. Service expansion needs in urban communities and mixed-use areas.

**POLICY 1.2.4:** When evaluating the CIP priorities for public services in mixed-use, urban, or otherwise developed areas, consider the following factors:

- a. County priorities including sustainability, economic development, livability, strong connections, and community character.
- b. The county's vision and future planning and development goals established in this plan;
- c. Future development committed through existing development orders;
- d. Facilities needed to satisfy a regulatory or a non-regulatory LOS standard.
- e. Projects that have been or could reasonably be provided by other governmental entities or the private sector;
- f. The revenue-generating potential of the project; and
- g. Donations of lands and services by the private sector and other governmental entities.

**POLICY 1.2.5:** Ensure effective implementation and achievement of the CIP through regular review by the Board of County Commissioners in order to ensure that proposed projects are moving forward in accordance with county development practices and budgeting priorities.

**POLICY 1.2.6:** Fulfill county CIP priorities by conducting annual assessments of the revenue sources available to support capital facility construction and preparing estimates of costs needed to implement proposed capital improvement projects.

**POLICY 1.2.7:** Utilize the zoning and development order process to maintain the adopted LOS standards on public facilities by establishing methods by which developers will fund, construct, and maintain capital facilities improvements needed to serve new development.

Staff recommends the above objective and set of policies be added in order to ensure the county provides for the implementation of an effective capital improvement planning and budgeting process as required by FS 163.3177(3)(a).

**OBJECTIVE 1.3: Concurrency Management System.** Maintain a concurrency management system to ensure that regulatory LOS requirements will be met and monitor desired non regulatory LOS standards.

**POLICY 1.3.1:** Evaluate proposed planning, zoning, and development applications to ensure regulatory LOS standards are met and monitor desired non regulatory standards.

**POLICY 1.3.2:** If the regulatory LOS standards cannot be achieved, the county will oversee one of the following actions:

- a. Enter into agreement with the developer to address the public infrastructure demands consistent with the Capital Improvements Element; or
- b. Limit development or deny permits until improvements are programmed in the first three years of the CIP.

**POLICY 1.3.3:** The concurrency management system will include a review and appeal process to ensure due process to the land owner. This process may include variances, but variances will be limited to allow those development rights necessary to avoid the unconstitutional taking of private property without due process of law.

**POLICY 1.3.4:** Ensure non-regulatory standards are fulfilled by monitoring and inventorying transportation, public schools regional and community parks, boat ramps, evacuation, and shelters public services and infrastructure systems.

Staff recommends the above objective and set of policies be added in order to establish a concurrency management system that reflects current Florida growth management requirements and practices as established by FS 163.3177(3)(a).

**OBJECTIVE 1.4: Fiscal Management.** Meet the service demands, fiscal priorities, and operational needs of the county through proactive fiscal management. Issues to evaluate and monitor include work plan and service demands, developer contributions, cost centers, revenue generators, cost controls, and debt management.

**POLICY 1.4.1:** Identify opportunities for generating revenue to plan, budget, and implement the county's development priorities, public facilities and services, and capital improvement work plan. Potential revenue generation opportunities include:

- a. Specific area financing tools;
- b. Special purpose, additional services, and user fees;
- c. Grants and other such resources.

**POLICY 1.4.2:** Utilize developer agreements to identify and ensure private developers pay for impacts caused to the county's public service and infrastructure systems.

**POLICY 1.4.3:** No new development may proceed that would negatively impact the regulatory LOS until the funding necessary to maintain regulatory LOS has been

established through mechanisms such as the CIP, private financing, public-private development agreements, dedication of facilities, or other identified funding source.

**POLICY 1.4.4:** Continually review county impact fees, and similar mechanisms, to ensure development pays a proportionate share of the capital facility and capacity improvements costs needed to address the demands generated by future development projects.

**POLICY 1.4.5:** Review zoning and development order applications to ensure that future developments do not negatively impact public services capabilities, infrastructure systems, and fiscal budgets. The assessment will consider the proposed development impact upon:

- a. Fiscal operations and capital improvement budgeting priorities;
- b. Public facilities maintenance budgets;
- c. Public facility and infrastructure system capacity; and
- d. LOS standards for public facilities and infrastructure systems.

**POLICY 1.4.6:** Financing for capital facilities from property taxes (ad valorem tax revenues) could come from millages assessed for the General Fund, Library Fund, Capital Improvement Fund, All Hazards Fund, Preservation Lands MSTU, Unincorporated MSTU and Dependent District MSTU funds. If a project is funded from ad valorem tax revenues and other revenues, those other sources should be used before the ad valorem tax funds.

**POLICY 1.4.7:** Limit the use of gas tax revenues to the Transportation Improvement Fund, unless required in other funds by bond indenture agreements.

**POLICY 1.4.8:** Limit the use of sales tax revenues for capital facilities to the General, MSTU, and MSBU Funds, unless required in other funds by bond indenture agreements.

Staff recommends the above objective and set of policies be added in order to ensure that Lee County meets its public service and infrastructure system needs in a financially feasible manner as required by FS 163.3177(3)(a).

**OBJECTIVE 1.5: Capital Improvement Partnerships.** Maximize public facility and financial resources by coordinating the development, expansion, maintenance, and financial feasibility of public services and infrastructure systems across departments and with local, regional, state, and federal partner agencies.



**POLICY 1.5.1:** Utilize interdepartmental and intergovernmental collaborations to provide for a well coordinated and comprehensively planned public service system through which:

- a. Alternative capital improvement funding sources are identified and secured;
- b. Individual departments collaborate on the review and prioritization of future capital projects.
- c. The county completes a holistic review of projects related to county goals regarding livability, strong connections, community character, and sustainability.

**POLICY 1.5.2:** Maximize financial resources and improve project efficiencies by coordinating public service and infrastructure system work efforts. Examples of coordinated enhancements include:

- a. Street projects that include utility, stormwater, sidewalk, and streetscape enhancements;
- b. Utility projects that include community parks, sidewalks, stormwater, and road enhancements, and;
- c. Stormwater projects that include roads, utility, and sidewalk improvements.

**POLICY 1.5.3:** Coordinate the provision of the public services and infrastructure systems with the local, regional, state, and Federal intergovernmental partners to ensure the services maintain LOS standards, fiscal feasibility, and the needs generated by expected development. In particular, the county will coordinate with Lee County Metropolitan Planning Organization, South Florida Water Management District, and School District of Lee County on the adoption and implementation of their five-year work programs.

Staff recommends the above objective and set of policies be added to plan in order to ensure the county coordinates its capital improvement practices with its local, regional, and state intergovernmental partner agencies—particularly as related to the provision of transportation, potable water, and public school services and facilities—as stipulated in FS 163.3177(3)(a).

#### **D. CONCLUSIONS**

Staff recommends deleting and adding new and revised goals, objectives, and policies to better address issues related to the development, planning, and budgeting of public services and public infrastructure systems in order to address revised state requirements and improve the element's organizational structure.

#### **E. STAFF RECOMMENDATION**

County staff recommends that the Board of County Commissioners *transmit* the proposed amendments to the Lee County Capital Improvements Element as provided in Part I(B)(1) on page 1 of this report.

**PART III - LOCAL PLANNING AGENCY  
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: May 31, 2012

**A. LOCAL PLANNING AGENCY REVIEW**

**B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF  
FACT SUMMARY**

**1. RECOMMENDATION:**

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

**C. VOTE:**

<b>NOEL ANDRESS</b>	_____
<b>WAYNE DALTRY</b>	_____
<b>JIM GREEN</b>	_____
<b>MITCH HUTCHCRAFT</b>	_____
<b>RONALD INGE</b>	_____
<b>ANN PIERCE</b>	_____
<b>ROGER STRELOW</b>	_____

**TEXT AMENDMENTS:****14. Capital Improvements**

The Capital Improvements Element provides a framework for planning, constructing, and financing public services and infrastructure within Lee County. This is achieved by examining the costs, priorities, and needs for service and facilities, the county's fiscal capabilities, and legal requirements. The county establishes financial policies to guide improvements and a capital improvement program that defines the budget and time frame for project implementation. The Capital Improvements Element ensures public services and infrastructure projects support the county's planning and development priorities.

**GOAL 1: Highly Effective Capital Improvements System.**

Provide for the needs and demands of the public through the delivery of highly valued, well managed, and fiscally responsible public services and infrastructures system.

**OBJECTIVE 1.1: Public Service and Infrastructure Standards.** Ensure public services and infrastructure improvement practices consider county priorities, fiscal demands, and development needs. Capital improvements will be based upon:

- a. Adopted Levels of Service (LOS);
- b. Coordination of facility improvements, capacity increases, LOS standards, fiscal planning, and budgeting processes;
- c. Assurance that future development shares responsibility for facility improvements, maintenance costs, and future service demands; and
- d. Other county priorities related to sustainability, economic development, livability, strong connections, and community character.

**POLICY 1.1.1:** Implement regulatory and non-regulatory level of service standards to meet the public service and infrastructure needs of the county. The minimum acceptable LOS will be the basis for facility design, for setting impact fees, and operation of the Concurrency Management System.

- a. Regulatory standards are identified in state law and deemed essential to support development. Regulatory standards apply to facilities that provide potable water, sanitary sewer, disposal of solid waste, and stormwater management, and;
- b. Non-regulatory standards are important to optimizing the county's quality of life for which the county desires to establish standards for its own use; compliance with non-regulatory standards is not a requirement for development permitting. Non-

regulatory standards apply to facilities for transportation, public schools, regional and community parks, boat ramps, evacuation time, and shelters.

**POLICY 1.1.2:** The following regulatory LOS standards will be maintained as growth occurs in the county.

- a. Potable Water – supply and treatment capacity within certificated, franchised, or designated service areas:
  1. Average Daily Flow of 250 gallons per Equivalent Residential Connection (ERC) for the peak month;
  2. Average Daily Flow of 200 gallons per unit for the peak month for mobile home residential structures; and
  3. Average Daily Flow of 100 gallons per unit for the peak month for travel trailer residential structures.
- b. Sanitary Sewer – treatment and disposal capacity within certificated, franchised, or designated service areas:
  1. Average Daily Flow of 200 gallons per ERC for the peak month;
  2. Average Daily Flow of 160 gallons per unit for the peak month for mobile home residential structures; and
  3. Average Daily Flow of 80 gallons per unit for the peak month for travel trailer residential structures.
- c. Solid Waste:
  1. 7 pounds (or equivalent volume) per capita per day.
- d. Stormwater Management:
  1. Existing Infrastructure – The existing surface water management system in the unincorporated areas of the county is expected to prevent the flooding of designated evacuation routes from the 25-year, 3-day storm event or rainfall for more than 24 hours;
  2. Six Mile Cypress Watershed - The floor slabs for all new private and public structures which are constructed a minimum of one (1) foot above the 100-year, 3-day storm event flood plain level will be safe from flooding from a 100-year, 3-day storm event (rainfall). The 100-year flood plain level and watershed boundaries are as established in Volume IV of the Six Mile Cypress Watershed Plan;
  3. The Six Mile Cypress Slough and its major tributaries as identified in the Six Mile Cypress Watershed Plan (February 1990) must accommodate the associated discharge from the 25 year, 3-day storm event (rainfall). [Ref: Six Mile Cypress Watershed Plan (February 1990) -Volume II, Pages 10-5.]
  4. A North Fort Myers Surface Water Management Plan has been developed in March 2010 and has been subsequently adopted by the Board of County Commissioners. The plan covers a 21-watershed area between US 41 and SR 31,

north of the Caloosahatchee River. The proposed level of service for this area is as follows:

- County roads shall meet or exceed a 5-year, 24-hour storm event
  - Evacuation routes shall meet or exceed a 25-year, 3-day storm event
  - Major collectors and arterial roadways shall have no more than 6 inches of water for a 25-year, 3-day storm event
  - Finished floor elevations of structures shall meet or exceed a 100-year, 3-day storm event
5. Gator Slough, Yellow Fever Creek, Yellow Fever Creek-East Branch, Powell Creek, Billy Creek, Whiskey Creek, Deep Lagoon, Cow Creek, Hendry Creek, Ten Mile Canal, and Imperial River Watersheds.
  6. Designated impaired water bodies will be improved towards State and Federal water quality criteria in accordance with the Total Maximum Daily Load and NPDES programs.

The level-of-service standard for the above watersheds will be that all arterial roads at their crossing of the trunk conveyances, as referenced in the Lee County Surface Water Management Master Plan, will be free of flooding from the 25-year, 3-day storm event (rainfall). This standard will not apply to Chiquita Boulevard because it is located within the City of Cape Coral.

Floor slabs for all new private and public structures which are constructed a minimum of one (1) foot above the 100-year, 3-day storm event flood plain level will be safe from flooding from a 100-year, 3-day storm event (rainfall).

**POLICY 1.1.3:** The following non-regulatory LOS standards will be maintained as growth occurs in the county.

a. Multi-modal Transportation Facilities:

1. The LOS for transportation facilities will be established through an assessment of all transportation modes including roadway, bike, pedestrian, and transit capacity and service volumes consistent with the standards established in the Transportation Element. *(To be updated upon completion of the Transportation Element)*
2. The following transportation facilities have a LOS standard “C”:
  - a) I-75: SR 78 to Charlotte County border;
  - b) SR 80: Werner Drive to Hendry County border; and
  - c) SR 82: Commerce Lakes Drive to Hendry County border.
3. The following roadway segments have a LOS standard “D”:
  - a) Expressways (limited access facilities);
  - b) I-75: Collier County to SR 78;
  - c) State Road 80 (Palm Beach Boulevard): I-75 to Werner Drive;

- d) State Road 82: Lee Boulevard to Commerce Lakes Drive;
  - e) Airport Connector: I-75 to Ben Hill Griffin Parkway;
  - f) Colonial Boulevard: I-75 to Lee Boulevard;
  - g) Imperial Parkway: E. Terry Street to Bonita Bill Drive; and
  - h) Six Mile Cypress Parkway: Daniels Parkway to Winkler Avenue.
4. The following roadways segments have a LOS standard “E”:
    - a) Controlled access arterials;
    - b) Arterials;
    - c) Major collectors; and
    - d) Minor collectors.  5. The minimum acceptable LOS on Pine Island Road between Burnt Store Road and Stringfellow Road is “D” on annual average peak hour and “E” on a peak season, peak hour basis.
- b. School Facilities:
1. Elementary Schools – 100% of Permanent Florida Inventory of School Houses (FISH) Capacity;
  2. Middle Schools – 100% of Permanent FISH Capacity;
  3. High Schools – 100% of Permanent FISH Capacity; and
  4. Special Purpose Facilities – 100% of Permanent FISH Capacity.
- c. Parks:
1. Regional Parks - 8 acres of regional parks per 1,000 residents based on the total Lee County permanent and seasonal population; and
  2. Community Parks - 2 acres of community parks per 1,000 residents based on the total Lee County permanent population.
  3. Boat Ramps - 1 boat ramp lane with adequate parking for vehicles with boat trailers for every 12,500 of total county population.

**OBJECTIVE 1.2: County Planning and Budgeting Process.** Establish a highly effective capital improvements system through a planning and budgeting process that addresses public services and infrastructure concerns in a comprehensive, collaborative, and transparent manner.

**POLICY 1.2.1:** As part of the capital planning and budgeting process, utilize the following project criteria to evaluate and prioritize proposed capital improvements for inclusion in the Capital Improvement Program (CIP):

- a. Priority 1: Directed by a court order or otherwise by law;
- b. Priority 2: Removes a direct and immediate threat to the public health or safety;
- c. Priority 3: Essential for the maintenance and support of county investments in existing infrastructure;
- d. Priority 4: Projects to address regulatory LOS deficiencies; and

- e. Priority 5: Projects to address non-regulatory LOS deficiencies; and
- f. Priority 6: Consistency with county planning and development priorities regarding sustainability, economic development, livability, strong connections, and community character.

**POLICY 1.2.2:** Establish a capital improvement budgeting process that incorporates issues related to sustainability and complete streets. Such a process will:

- a. Ensure a transparent, public process that takes stakeholder input into account from the beginning to the end of the process.
- b. Delineate a clear decision-making process for staff, consultants, and stakeholders that promotes collaboration and a holistic approach at all stages of the process.
- c. Prioritize projects and document the rationale/tradeoffs of recommendations using Complete Streets Evaluation Tools; and
- d. Creatively address community issues and improve the use of limited resources through a collaborative planning process that allows for the flexibility needed to work across departments to meet county goals.

**POLICY 1.2.3:** Employ a clear decision-making capital improvements planning and budgeting process that promotes collaboration, stakeholder input, transparency, and accountability at all stages of the process. This process will be coordinated with interdepartmental project teams and appropriate advisory panels and consider:

- a. Adopted LOS and current and projected deficiencies;
- b. Project operation, construction, and capital costs;
- c. Facility needs and infrastructure demands based upon facility location districts, service volume, demand, location, land use intensity and density, current development orders, and location of the identified public facility; and
- d. County annual operating budget and revenue projections.
- e. Service expansion needs in urban communities and mixed-use areas.

**POLICY 1.2.4:** When evaluating the CIP priorities for public services in mixed-use, urban, or otherwise developed areas, consider the following factors:

- a. County priorities including sustainability, economic development, livability, strong connections, and community character.
- b. The county's vision and future planning and development goals established in this plan;
- c. Future development committed through existing development orders;
- d. Facilities needed to satisfy a regulatory or a non-regulatory LOS standard.
- e. Projects that have been or could reasonably be provided by other governmental entities or the private sector;
- f. The revenue-generating potential of the project; and

g. Donations of lands and services by the private sector and other governmental entities.

**POLICY 1.2.5:** Ensure effective implementation and achievement of the CIP through regular review by the Board of County Commissioners in order to ensure that proposed projects are moving forward in accordance with county development practices and budgeting priorities.

**POLICY 1.2.6:** Fulfill county CIP priorities by conducting annual assessments of the revenue sources available to support capital facility construction and preparing estimates of costs needed to implement proposed capital improvement projects.

**POLICY 1.2.7:** Utilize the zoning and development order process to maintain the adopted LOS standards on public facilities by establishing methods by which developers will fund, construct, and maintain capital facilities improvements needed to serve new development.

**OBJECTIVE 1.3: Concurrency Management System.** Maintain a concurrency management system to ensure that regulatory LOS requirements will be met and monitor desired non regulatory LOS standards.

**POLICY 1.3.1:** Evaluate proposed planning, zoning, and development applications to ensure regulatory LOS standards are met and monitor desired non regulatory standards.

**POLICY 1.3.2:** If the regulatory LOS standards cannot be achieved, the county will oversee one of the following actions:

- a. Enter into agreement with the developer to address the public infrastructure demands consistent with the Capital Improvements Element; or
- b. Limit development or deny permits until improvements are programmed in the first three years of the CIP.

**POLICY 1.3.3:** The concurrency management system will include a review and appeal process to ensure due process to the land owner. This process may include variances, but variances will be limited to allow those development rights necessary to avoid the unconstitutional taking of private property without due process of law.

**POLICY 1.3.4:** Ensure non-regulatory standards are fulfilled by monitoring and inventorying transportation, public schools regional and community parks, boat ramps, evacuation, and shelters public services and infrastructure systems.



**OBJECTIVE 1.4: Fiscal Management.** Meet the service demands, fiscal priorities, and operational needs of the county through proactive fiscal management. Issues to evaluate and monitor include work plan and service demands, developer contributions, cost centers, revenue generators, cost controls, and debt management.

**POLICY 1.4.1:** Identify opportunities for generating revenue to plan, budget, and implement the county's development priorities, public facilities and services, and capital improvement work plan. Potential revenue generation opportunities include:

- a. Specific area financing tools;
- b. Special purpose, additional services, and user fees;
- c. Grants and other such resources.

**POLICY 1.4.2:** Utilize developer agreements to identify and ensure private developers pay for impacts caused to the county's public service and infrastructure systems.

**POLICY 1.4.3:** No new development may proceed that would negatively impact the regulatory LOS until the funding necessary to maintain regulatory LOS has been established through mechanisms such as the CIP, private financing, public-private development agreements, dedication of facilities, or other identified funding source.

**POLICY 1.4.4:** Continually review county impact fees, and similar mechanisms, to ensure development pays a proportionate share of the capital facility and capacity improvements costs needed to address the demands generated by future development projects.

**POLICY 1.4.5:** Review zoning and development order applications to ensure that future developments do not negatively impact public services capabilities, infrastructure systems, and fiscal budgets. The assessment will consider the proposed development impact upon:

- a. Fiscal operations and capital improvement budgeting priorities;
- b. Public facilities maintenance budgets;
- c. Public facility and infrastructure system capacity; and
- d. LOS standards for public facilities and infrastructure systems.

**POLICY 1.4.6:** Financing for capital facilities from property taxes (ad valorem tax revenues) could come from millages assessed for the General Fund, Library Fund, Capital Improvement Fund, All Hazards Fund, Preservation Lands MSTU, Unincorporated MSTU and Dependent District MSTU funds. If a project is funded from ad valorem tax revenues and other revenues, those other sources should be used before the ad valorem tax funds.

**POLICY 1.4.7:** Limit the use of gas tax revenues to the Transportation Improvement Fund, unless required in other funds by bond indenture agreements.

**POLICY 1.4.8:** Limit the use of sales tax revenues for capital facilities to the General, MSTU, and MSBU Funds, unless required in other funds by bond indenture agreements.

**OBJECTIVE 1.5: Capital Improvement Partnerships.** Maximize public facility and financial resources by coordinating the development, expansion, maintenance, and financial feasibility of public services and infrastructure systems across departments and with local, regional, state, and federal partner agencies.

**POLICY 1.5.1:** Utilize interdepartmental and intergovernmental collaborations to provide for a well coordinated and comprehensively planned public service system through which:

- a. Alternative capital improvement funding sources are identified and secured;
- b. Individual departments collaborate on the review and prioritization of future capital projects.
- c. The county completes a holistic review of projects related to county goals regarding livability, strong connections, community character, and sustainability.

**POLICY 1.5.2:** Maximize financial resources and improve project efficiencies by coordinating public service and infrastructure system work efforts. Examples of coordinated enhancements include:

- a. Street projects that include utility, stormwater, sidewalk, and streetscape enhancements;
- b. Utility projects that include community parks, sidewalks, stormwater, and road enhancements, and;
- c. Stormwater projects that include roads, utility, and sidewalk improvements.

**POLICY 1.5.3:** Coordinate the provision of the public services and infrastructure systems with the local, regional, state, and Federal intergovernmental partners to ensure the services maintain LOS standards, fiscal feasibility, and the needs generated by expected development. In particular, the county will coordinate with Lee County Metropolitan Planning Organization, South Florida Water Management District, and School District of Lee County on the adoption and implementation of their five-year work programs.