



LEE COUNTY
SOUTHWEST FLORIDA
BOARD OF COUNTY COMMISSIONERS

November 23, 2015

John E. Manning
District One

Cecil L. Pendergrass
District Two

Larry Kiker
District Three

Brian Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
Hearing Examiner

Ray Eubanks, Plan Processing Administrator
State Land Planning Agency
Caldwell Building
107 East Madison – MSC 160
Tallahassee, FL. 32399-0800

Re: Amendment to the Lee Plan
Transmittal Submission Package
November 18, 2015 Transmittal Hearing

Dear Mr. Eubanks:

In accordance with the provisions of F.S. Chapter 163, please find attached the proposed Comprehensive Plan Amendments, known locally as CPA2014-00001 (Water Supply Facilities Work Plan), CPA2015-00006 (Treeline 200), and CPA2015-00008 (Capital Improvement Element Update). The proposed amendments are being submitted through the expedited state review process as described in Chapter 163.3184. The amendments are as follows:

CPA2014-00001, Water Supply Facilities Work Plan: Amend the Lee Plan to incorporate the Lee County Water Supply Facilities Work Plan (Work Plan) as required by Florida Statute (F.S.) 163.3177(6)(c).

CPA2015-00006, Treeline 200: Amend Lee Plan Policy 1.3.2 and Table 1(a) to allow for multi-family residential uses within the General Interchange future land use category. Amend Table 1(b), Year 2030 Allocations, to accommodate residential development within the General Interchange future land use category.

CPA2015-00008, Capital Improvement Element Update: Amend Lee Plan Capital Improvement Element Policies 95.1.1, 95.1.5, 95.1.6, 95.5.1 and 95.5.2 to allow future revisions to Lee Plan Tables 3, 3(a), and 4 by ordinance as permitted by Florida Statute (F.S.) 163.3177(3)(b).

The Local Planning Agency held a public hearing for these plan amendments on October 26, 2015. The Board of County Commissioners transmittal hearing for these plan amendments was held on November 18, 2015. At the November 18, 2015 transmittal hearing, the Board of County Commissioners voted to transmit each of the attached Lee Plan amendments. The proposed amendments are not applicable to an area of critical state concern. The Board of County Commissioners has stated its intent to hold an adoption hearing following the receipt of the review agencies' comments.

The name, title, address, telephone number, facsimile number, and email address of the person for the local government who is most familiar with the proposed amendment is as follows:

Mr. Brandon Dunn, Principal Planner
Lee County Planning Division
P.O. Box 398
Fort Myers, Florida 33902-0398
(239) 533-8809
Fax (239) 485-8319
Email: bdunn@leegov.com

Included with this package are one paper copy and two CD ROM copies, in PDF format, of the proposed amendment and supporting data and analysis. By copy of this letter and its attachments, I certify that this amendment and supporting data and analysis have been sent on this date to the agencies listed below.

Sincerely,



Mikki Rozdolski, Planning Manager
Department of Community Development
Planning Section

All documents and reports attendant to this transmittal are also being sent, by copy of this cover in a CD ROM format, to:

Comprehensive Plan Review
Department of Agriculture and Consumer Services

Tracy D. Suber
Department of Education

Plan Review
Department of Environmental Protection

Deena Woodward
Florida Department of State

Scott Sanders
Florida Fish and Wildlife Conservation Commission

Sarah Catala
FDOT District One

Margaret Wuerstle
Southwest Florida Regional Planning Council

Terry Manning, A.I.C.P., Senior Planner, Intergovernmental Coordination Section
South Florida Water Management District

THE NEWS-PRESS
Published every morning
Daily and Sunday
Fort Myers, Florida
Affidavit of Publication

STATE OF FLORIDA
COUNTY OF LEE

Before the undersigned authority, personally appeared **Teri Halm** who on oath says that he/she is the **Legal Assistant** of the News-Press, a daily newspaper, published at Fort Myers, in Lee County, Florida; that the attached copy of advertisement, being a

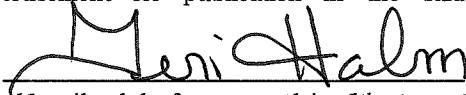
Legal Notice

In the matter of: **Notice of Proposed Amendment to the Lee County Comprehensive Land Use Plan – Transmittal Hearing**

In the court was published in said newspaper in the issues of

November 6, 2015

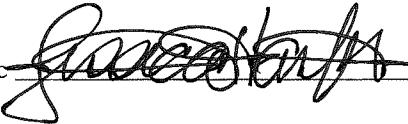
Affiant further says that the said News-Press is a paper of general circulation daily in Lee, Charlotte, Collier, Glades and Hendry Counties and published at Fort Myers, in said Lee County, Florida and that said newspaper has heretofore been continuously published in said Lee County, Florida, each day, and has been entered as a second class mail matter at the post office in Fort Myers in said Lee County, Florida, for a period of one year next preceding the first publication of the attached copy of the advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.



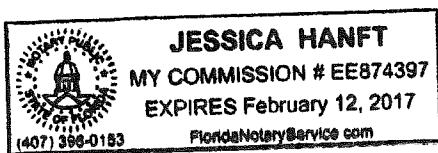
Sworn to and subscribed before me this 6th day of November, 2015.

by **Teri Halm**
personally known to me or who has produced

as identification, and who did or did not take an oath.

Notary Public 

Print Name: **Jessica Hanft**
My commission Expires: **February 12, 2017**



NOTICE OF PROPOSED AMENDMENT
TO THE
LEE COUNTY COMPREHENSIVE
LAND USE PLAN
(TRANSMITTAL HEARING)

The Lee County Board of County Commissioners will hold a public hearing to consider proposed amendments to the Lee County Comprehensive Land Use Plan (Lee Plan) on Wednesday, November 18, 2015. The hearing will commence at 9:30 a.m., or as soon thereafter as can be heard, in the Board Chambers at 2120 Main Street in Downtown Fort Myers. At the hearing, the Board will consider the proposed amendments for transmittal to the Florida Department of Economic Opportunity:

CPA2015-00006, TreeLine 200: Amend Lee Plan Policy 1.3.2 and Table 1(a) to allow for multi-family residential uses within the General Interchange future land use category. Amend Table 1(b), Year 2030 Allocations, to accommodate residential development within the General Interchange future land use category.

CPA2014-00001, Water Supply Facilities Work Plan: Incorporate the Lee County Water Supply Facilities Work Plan into the Lee Plan as required by Florida Statutes (F.S.) §163.3177(6)(c).

CPA2015-00008, Capital Improvement Element: Amend Lee Plan Capital Improvement Element Policies 95.1.1, 95.1.5, 95.1.6, 95.5.1 and 95.5.2 to allow future revisions to Lee Plan Tables 3, 3(a), and 4 by ordinance as permitted by revised Florida Statute (F.S.) §163.3177(3)(b).

This transmittal hearing is the first step in a two step public hearing process to amend the Lee Plan. A second hearing will follow the Department of Economic Opportunity's review of the application.

This meeting is open to the public. Interested parties may appear at the meeting and be heard with respect to the proposed plan amendment. A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing. Persons with disabilities who need an accommodation to participate in the public hearing should contact Janet Miller at 239-533-8583 or jmiller@leegov.com. To ensure availability of services, please request accommodation as soon as possible but preferably five or more business days prior to the event. Persons using a TDD may contact Janet Miller through the Florida Relay Service, 711.
Ad No. 845354 November 6, 2015

CPA2015-00008

CAPITAL IMPROVEMENT

ELEMENT



**COMPREHENSIVE PLAN
AMENDMENT**

**CPA2015-08
CAPITAL IMPROVEMENTS
ELEMENT UPDATE**

County-Initiated Amendment

DEO Transmittal Document

11/18/2015

**LEE COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING SECTION**

**STAFF REPORT
COMPREHENSIVE PLAN AMENDMENT
CPA2015-08**

Text Amendment

Map Amendment

This Document Contains the Following Reviews	
<input checked="" type="checkbox"/>	Staff Review
<input checked="" type="checkbox"/>	Local Planning Agency Review and Recommendation
<input checked="" type="checkbox"/>	Board of County Commissioners Hearing for Transmittal
	Staff Response to Review Agencies' Comments
	Board of County Commissioners Hearing for Adoption

Staff Report Publication Date: October 16, 2015

**PART I
APPLICATION SUMMARY**

A. PROJECT NAME:

Capital Improvements Element Update

B. APPLICANT:

Lee County Board of County Commissioners

C. REPRESENTATIVE:

Lee County Department of Community Development, Planning Section

D. PROPOSED LEE PLAN AMENDMENTS:

Amend Lee Plan Capital Improvement Element Policies 95.1.1, 95.1.5, 95.1.6, 95.5.1 and 95.5.2 to allow future revisions to Lee Plan Tables 3, 3(a), and 4 by ordinance as permitted by revised Florida Statute (F.S.) §163.3177(3)(b).

PART II STAFF DISCUSSION AND ANALYSIS

The Lee Plan is required to have a Capital Improvements Element that includes a schedule of the capital improvements which are to be funded. The schedule is determined by the Capital Improvement Program (CIP) – a five-year plan of all public facility development projects to be undertaken based on facilities needed to meet current and projected deficiencies. Capital improvements are defined by the Lee Plan as the acquisition of land, real property, a physical facility, or the construction of a physical facility. Capital improvements include major infrastructure facilities such as roads, bridges, parks, libraries, utilities, and general government facilities. The Lee County Board of County Commissioners (BOCC) adopt the CIP in conjunction with the county's annual operating budget. The following tables constitute the state required schedule of capital improvements to be incorporated into the Lee Plan:

- **Table 3: Total Project List.** A list of the funding for various Lee County projects over the next five years. These projects are nominated by various departments to meet projected level of service needs and are approved by the BOCC as part of the annual budget. Some projects address existing deficiencies while others are intended to address projected deficiencies during the ensuing five-year period.
- **Table 3(a): Lee County School District Five-Year Capital Improvement Program.** The five-year work plan of the Lee County School District that identifies their capital needs and is annually adopted by the Lee County School Board.
- **Table 4: Total Revenue and Project Summary.** A summary of the total revenue and expenditures for the projects listed in Table 3.

Following adoption of the CIP, to keep the Lee Plan consistent with the CIP, a separate county-initiated Lee Plan amendment has historically been required to incorporate these tables into the Lee Plan. In 2011 F.S. §163.3177(3)(b) was amended to allow the adopted five-year capital improvement schedule to be incorporated into the Lee Plan by ordinance as opposed to a separate county-initiated Lee Plan amendment. The statute states that *“modification to update the 5-year capital improvement schedule may be accomplished by ordinance and may not be deemed to be amendments to the local comprehensive plan.”* Incorporating the CIP into the Lee Plan by ordinance eliminates superfluous reviews of the already adopted capital improvement schedule and thereby streamlines the process. The proposed amendments to Policies 95.1.1, 95.1.5, 95.1.6, 95.5.1 and 95.5.2 will align the procedures of the Lee Plan with those allowed by the state. The proposed amendments to the Capital Improvements Element Policies are identified in Attachment 1.

PART III
CONCLUSIONS, FINDINGS OF FACT, AND RECOMMENDATION

CONCLUSIONS:

The amendments to the Capital Improvements Element will simplify the process for incorporating into the Lee Plan the CIP tables adopted by the annual operating budget by the BOCC. The proposed amendments, as identified in Attachment 1, will allow future incorporation of updated CIP tables into the Lee Plan consistent with the process allowed by F.S. §163.7177(3)(b).

FINDINGS OF FACT:

Based on the analysis provided in this report, staff makes the following findings of fact:

- F.S. §163.3177 requires that each local government adopt a Capital Improvements Element.
- F.S. §163.7177(3)(b) provides that modifications to update the five-year capital improvement schedule may be accomplished by ordinance rather than a plan amendment.
- The proposed amendments will streamline the process for incorporating updated CIP tables into the Lee Plan consistent with Florida Statutes.

STAFF RECOMMENDATION:

Staff recommends that the Board of County Commissioners **adopt** the proposed amendments to Policy 95.1.1, Policy 95.1.5, Policy 95.1.6, Policy 95.5.1 and Policy 95.5.2 as identified Attachment 1 to this staff report.

**PART IV
LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: October 26, 2015

A. LOCAL PLANNING AGENCY REVIEW:

Following a brief presentation concerning the proposed amendment, one LPA member asked what role the LPA would have in the CIP process. Staff replied that the LPAs role has been eliminated consistent with state statute. The LPA discussed the importance of providing an additional public forum for review of the CIP. As an alternative, the LPA requested that the CIP be made an agenda item for their review prior to its adoption by the Board of County Commissioners.

A motion was made to recommend that the Board not transmit the proposed amendment. The motion was called and passed by a 5 to 0 vote.

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

- 1. RECOMMENDATION:** The Local Planning Agency voted to recommend that the Board of County Commissioners NOT transmit the proposed amendment.
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA stated that the amendment would reduce public opportunities to participate in the CIP process.

C. VOTE: To not transmit: **5-0**

NOEL ANDRESS	AYE
TIMOTHY BROWN	AYE
DENNIS CHURCH	ABSENT
JIM GREEN	AYE
RICK JOYCE	AYE
DAVID MULICKA	ABSENT
GARY TASMAN	AYE

D. Staff response to the LPA Recommendation:

Staff continues to support the initial staff recommendation, and recommends that the Board of County Commissioners transmit the proposed amendment to the Capital Improvement Element.

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF TRANSMITTAL HEARING: November 18, 2015

A. BOARD REVIEW:

Staff gave a brief presentation and made a recommendation that the BoCC transmit the proposed amendment.

No members of the public were present; therefore, no public comment was heard.

A motion was made that the BOCC transmit staff's recommendation. The motion was called and passed 5-0.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

The Board of County Commissioners *transmitted* the proposed amendment as recommended by staff

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The Board of County Commissioners accepted the findings of fact as advanced by staff and the Local Planning Agency.

C. VOTE:

BRIAN HAMMAN	<u>AYE</u>
LARRY KIKER	<u>AYE</u>
FRANK MANN	<u>AYE</u>
JOHN MANNING	<u>AYE</u>
CECIL L PENDERGRASS	<u>AYE</u>

Text Amendments:

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 to incorporate the schedule of capital improvements adopted as part of the annual operating budget. The schedule must show all public facility projects to be undertaken during the ensuing five-year period.~~ 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.~~
54. ~~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. The schedule of capital improvements adopted as part of the annual operating budget will be incorporated into the Lee Plan annually by ordinance.

65. The adopted CIP ~~will~~ may be reviewed by the Board of County Commissioners during periodic public 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.~~
76. 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.

c. 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)

No amendments proposed to Policy 95.1.2 to Policy 95.1.4

POLICY 95.1.5: In accordance with Florida Statute §163.3177(3)–Section 9J-5.016(4)(a)1., ~~Florida Administrative Code~~, Table 3 contains a schedule of capital improvements, extracted from the most recently adopted CIP and incorporated into the Lee Plan by ordinance.~~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 established in (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 Florida Statute §163.3177(3) 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)

No amendments proposed to Objective 95.2 to Objective 95.5

POLICY 95.5.1: The County will annually incorporate by ordinance 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 Community Facilities and Services 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)