

LEE COUNTY ORDINANCE NO. 16-03
Capital Improvement Plan
CPA2015-00008

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT PERTAINING TO THE CAPITAL IMPROVEMENT PLAN (CPA2015-00008) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED MAP AND TEXT; LEGAL EFFECT OF "THE LEE PLAN"; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan ("Lee Plan") Policy 2.4.1. and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners ("Board"); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency ("LPA") held a public hearing on the proposed amendment in accordance with Florida Statutes and the Lee County Administrative Code on October 26, 2015 and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on November 18, 2015. At that hearing, the Board approved a motion to send, and did later send, proposed amendment pertaining to Capital Improvement Plan (CPA2015-00008) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the November 18, 2015 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies' written comments; and,

WHEREAS, on January 20, 2016 the Board held a public hearing and adopted the proposed amendment to the Lee Plan set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt map and text amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." **This amending ordinance may be referred to as the "Capital Improvement Plan Ordinance (CPA2015-00008)."**

SECTION TWO: ADOPTION OF COMPREHENSIVE PLAN AMENDMENT

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, which amends 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 known as the Capital Improvement Plan (CPA2015-00008).

The corresponding Staff Reports and Analysis, along with all attachments for this amendment are adopted as "Support Documentation" for the Lee Plan. Proposed amendments adopted by this Ordinance are attached as Exhibit A.

SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

SECTION FOUR: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION FIVE: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

SECTION SIX: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

SECTION SEVEN: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION EIGHT: EFFECTIVE DATE

The plan amendments adopted herein are not effective until 31 days after the State Land Planning Agency notifies the County that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the State Land Planning Agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status.

THE FOREGOING ORDINANCE was offered by Commissioner Manning, who moved its adoption. The motion was seconded by Commissioner Pendergrass. The vote was as follows:

John E. Manning	Aye
Cecil L Pendergrass	Aye
Larry Kiker	Aye
Brian Hamman	Aye
Frank Mann	Aye

DONE AND ADOPTED this 20th day of January, 2016.

ATTEST:
LINDA DOGGETT, CLERK

LEE COUNTY BOARD OF
COUNTY COMMISSIONERS

BY: *Linda Doggett*
Deputy Clerk

BY: *Franklin B. Mann*
Franklin B. Mann, Chair



DATE: 1/20/2016

Approved as to Form for the
Reliance of Lee County Only

[Signature]
County Attorney's Office

Exhibit A: Text Amendments

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)

STATE OF FLORIDA

COUNTY OF LEE

I, LINDA DOGGETT, Clerk of Circuit Court, Lee County, Florida, and ex-officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby certify that the attached Lee County Ordinance No. 16-03 is a true and correct copy of the Ordinance adopted by the Board of Lee County Commissioners at their meeting held on the 20th day of January, 2016.

GIVEN under my hand and seal at Fort Myers, Florida, this 22nd day of January, 2016.



LINDA DOGGETT
Clerk of Circuit Court
Lee County, Florida

By: Joyce Townsend
Deputy Clerk