

EXECUTIVE SUMMARY

Recommendation to have the Board of County Commissioners review and adopt an Ordinance for a Remedial Amendment to the Capital Improvement Element of the Growth Management Plan, as set forth in a Compliance Agreement between the Florida Department of Community Affairs and Collier County (Companion Item to 17A).

OBJECTIVES:

For the Board of County Commissioners (BCC) to review and adopt an Ordinance for a remedial amendment relating to public schools in the Capital Improvement Element (CIE) of the Collier County Growth Management Plan (GMP) as set forth in a Stipulated Settlement Agreement (Compliance Agreement) between the Florida Department of Community Affairs (DCA) and Collier County – and approve its transmittal to the Department of Community Affairs.

Together, the Ordinance for the remedial CIE amendment along with its companion Compliance Agreement, restore the Growth Management Plan to being “In Compliance”.

CONSIDERATIONS:

On February 24, 2009, the BCC adopted its annual update to the Capital Improvement Element by Ordinance No. 09-07. Amended CIE materials were transmitted to the DCA for their review, and on May 19, 2009, they rendered a Notice of Intent (NOI) and a Statement of Intent (SOI) to find certain CIE amendments relating to public schools not in compliance. The Notice of Intent was duly published in the *Naples Daily News* on May 20, 2009.

Provided with this Executive Summary are copies of the materials to be transmitted to the DCA, and include the Ordinance adopting the remedial amendment, and “Exhibit A” – the strike-through/underline CIE version [as an attachment to the Ordinance].

As noted in the companion to this item (Item 17A), this ordinance along with the remedial CIE amendment will remedy all inconsistencies between the Public Schools Facilities Element, the Capital Improvement Element and the Inter-local Agreement previously entered into between the BCC and School District. Stated succinctly, the inconsistencies cited had to do with funding for of site improvements associated with the construction of new schools. This agreement merely aligns the CIE with the Public Schools Facilities Element of the GMP and the Inter-local Agreement recently approved by the Board. The issues related to offsite improvements will still need to be addressed through the adoption and implementation of a new School Board Review (SBR) Process between Collier County and the District School Board of Collier County. The temporary absence of a School Board Review Process is not overly problematic as there are no major public school facility improvements identified in the District School Board’s Five-Year Capital Improvement Program.

In its Statement of Intent, the DCA identified the issues of inconsistency and recommended specific action to the County with respect to remedying these inconsistencies, stating, “Delete the amendments to Objective 2 and Policy 5.4 from the Comprehensive Plan.” These deletions clarify that any future offsite improvements for future schools will be done in accordance with the Inter-local Agreement that the BCC has previously entered into with the School District. The amendments will also insure that the Public Schools Facilities Element, the Capital Improvement Element and the aforementioned Inter-local Agreement are consistent with each other. Finally, adopting the remedial amendment will allow the County to avoid a potential costly Administrative Hearing. Pursuant to DCA’s recommendation and after consultation with Collier County School District staff, proposed remedial amendments have been drafted for the CIE. These issues are addressed by the DCA in the Compliance Agreement to be approved by the BCC along with the remedial CIE amendments. All remaining CIE amendments adopted pursuant to Ordinance 09-07 to be “In Compliance”.

FISCAL IMPACT:

There is very little potential that fiscal impacts to Collier County could result from these proposed remedial CIE amendments during the five-year CIE Schedule of Capital Improvements. No new public school facilities are scheduled for development and construction during this time period. Therefore, the likelihood that the County would realize any potential fiscal impact is highly improbable.

GROWTH MANAGEMENT IMPACT:

The purpose of this hearing is to adopt certain amendments to the CIE as a remedial amendment to the Collier County Growth Management Plan, Ordinance 89-05, as amended, pursuant to the Compliance Agreement with DCA, approved by the BCC on this date and executed by all parties by accordingly.

This remedial CIE amendment represents a solution resolving the DCA’s finding of Not in Compliance. However, a gap in the site specific school review process will exist until the adoption and implementation of a new School Board Review Process between Collier County and the District School Board of Collier County. Fortunately, this is a local matter not subject to State scrutiny and will be mutually agreed upon by the BCC and School Board.

LEGAL CONSIDERATIONS:

The DCA has found a portion of the County’s CIE in non-compliance. The proposed Stipulated Settlement Agreement will resolve the issue. The DCA has already signed the Agreement. Once the DCA-signed Agreement has been approved by the BCC, the Board may, at this same meeting, proceed with the Ordinance for the remedial CIE amendment. When the remedially amended CIE is found “In Compliance” by the DCA, the Florida Department of Administrative Hearings (DOAH) case will be dismissed. This item is not quasi-judicial and as such, ex parte disclosure is not required. This item requires a majority vote only. (STW)

RECOMMENDATION:

That the Board of County Commissioners adopt the Ordinance for these modified portions of the Capital Improvement Element as a remedial amendment to the Collier County Growth Management Plan, Ordinance 89-05, as amended.

PREPARED BY: Corby Schmidt, AICP, Principal Planner
Comprehensive Planning Department