

**SEMINOLE COUNTY GOVERNMENT  
BOARD OF COUNTY COMMISSIONERS  
AGENDA MEMORANDUM**

**SUBJECT:** Capital Improvements Element Text Amendment

**DEPARTMENT:** Planning and Development **DIVISION:** Planning

**AUTHORIZED BY:** Kent Cichon **CONTACT:** Dick Boyer **EXT.** 7382

<b>Agenda Date</b> <u>12/10/02</u>	<b>Regular</b> <input type="checkbox"/>	<b>Consent</b> <input type="checkbox"/>	<b>Work Session</b> <input type="checkbox"/>	<b>Briefing</b> <input type="checkbox"/>
	<b>Public Hearing – 1:30</b> <input type="checkbox"/>		<b>Public Hearing – 7:00</b> <input checked="" type="checkbox"/>	

**MOTION/RECOMMENDATION:**

1. Move to enact an ordinance adopting the proposed Capital Improvements Element policy text amendment regarding the funding of public transportation;
2. Move to deny the proposed Capital Improvements Element policy text amendment regarding the funding of public transportation;
3. Move to continue this item to (date certain specified).

**BACKGROUND:**

The County currently levies two fuel taxes: 1) the "first six cents" Local Option Gas Tax (LOGT) which is divided with the Cities per an adopted interlocal agreement and which primarily funds road maintenance; and 2) the "9<sup>th</sup>" cent LOGT which funds countywide transit operating expenses paid to LYNX, the regional transit agency.

Staff is proposing a new policy in the Capital Improvements Element (CIE) that would allow the flexibility of other fuel taxes, besides the 9<sup>th</sup> cent LOGT, to be used for public transportation costs, both capital and operating expenses. Such a change may require a future amendment to the existing interlocal agreement with the Cities. The County Attorney's Office has determined that this potential revenue source, if it were to be levied, could be used for transit capital improvements and operating costs.

The Second Five Cent Gas Tax is presently not levied in Seminole County. This tax may be levied at rates ranging from two cents to five cents per gallon of fuel. Approval of this tax would require a voter referendum or a super-majority vote of the Board of County Commissioners.

**LPA/P&Z - 06/05/02:**

The LPA/P&Z unanimously recommended approval.

**BOARD OF COUNTY COMMISSIONERS - 09/24/02 (Transmittal Hearing of DCA):**

The BCC unanimously approved.

<b>Reviewed by:</b>
<b>Co Atty:</b> <u>KCC</u>
<b>DFS:</b>
<b>Other:</b> <u>MM</u>
<b>DCM:</b> <u>SS</u>
<b>CM:</b> <u>JE</u>
<b>File No.</b> <u>ph700pdp01</u>

**DEPARTMENT OF COMMUNITY AFFAIRS:**

The Department's Objections, Recommendations, Comments report (ORC Report) is not expected to be issued before the first week in December. The results of the ORC will be provided to the Board at the 12/10 hearing.

**STAFF RECOMMENDATION:**

Staff recommends enactment of an ordinance adopting the proposed Capital Improvements Element policy text amendment

**ATTACHMENTS:**

- Proposed policy
- Explanation of Fuel Taxes
- LPA/P&Z minutes of 06/05/02
- BCC minutes of 09/24/02

**PROPOSED**  
**ADDITION OF NEW POLICY TO THE CAPITAL IMPROVEMENTS ELEMENT**

This new policy is proposed to be added under “Objective CIE 1 – Adoption and Update of Capital Improvements Element”.

**Policy CIE 1.11 Funding of Public Transportation Services**

The Board of County Commissioners shall, at its discretion and in accordance with law, make use of fuel tax revenues and other legal revenue sources for the purpose of funding public transportation capital, operations and maintenance as identified in the Seminole County Comprehensive Plan Capital Improvements Element (CIE). Such revenues may be expended for the public transportation services identified in the CIE including but not limited to capital facilities, operations and maintenance. These services may be provided directly by the County or may be contracted for through public or private service providers.

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### **Explanation on Fuel Taxes**

Three separate fuel taxes may be levied by local governments in the State of Florida. These are known as the “Local Option Gas Tax” (LOGT). These taxes consist of three separate levies: the “First Six Cent Tax, which Seminole County levies; a “Second Five Cents Tax”, which Seminole County does not levy; and the “Ninth-Cent Fuel Tax”, which Seminole County levies.

The First Six Cent Gas Tax generates approximately \$6.5 million per year in revenue and per an adopted interlocal agreement is divided between the County and the Cities. The County receives 64 percent of the revenue and the Cities divide the remaining 36 percent. This LOGT primarily funds road maintenance presently.

The Ninth-Cent Fuel Tax currently generates approximately \$1.9 million per year. The Board of County Commissioners has dedicated these revenues to fund countywide transit operating expenses. The Cities do not receive any of these revenues but benefit from the provision of transit services from LYNX.

## **Local Planning Agency/Planning and Zoning Board Minutes – 06/05/02**

### **H. IMPROVEMENTS ELEMENT TEXT AMENDMENT SEMINOLE COUNTY BCC; NEW POLICY SHALL ENABLE THE COUNTY TO MAKE USE OF ANY GAS TAX REVENUES FOR TRANSIT OPERATIONS AND MAINTENANCE. ALICE GILMARTIN**

This is an Ordinance amending Road Impact Fee Chapter 120 of the Land Development Code to proceed with scheduling of public hearings to consider an Ordinance amending Road Impact Fee Chapter 120, Land Development Code, Seminole County, to include the establishment of future sunset dates.

The County currently levies two fuel taxes: 1) the “first six cents” Local Option Gas Tax (LOGT) which is divided with the Cities per an adopted interlocal agreement and which primarily funds road maintenance; and 2) the cent LOGT which funds countywide transit operating expenses paid to LYNX, the regional transit agency.

Staff is suggesting a new policy in the Capital Improvements Element (CIE) that would allow the flexibility of other fuel taxes, besides the 9¢ LOGT, to be used for public transportation costs, both capital and operating expenses. Such a change may require a future amendment to the existing interlocal agreement with the Cities. Also should the “second five cents” fuel tax ever be levied in the County, the revenue may be usable for transit capital and operating costs pending County Attorney review and compliance with the County’s adopted comprehensive plan. These revenues could be used for a variety of transit related needs to include funding rail, bus or paratransit needs.

This new policy is proposed to be added under “Objective CIE 1 - Adoption and Update of Capital Improvements Element”.

#### **Policy CIE 1 .1 1 Funding of Public Transportation Services**

The County shall, at its discretion and in accordance with law, make use of fuel tax revenues and other legal revenue sources for the purpose of funding public transportation capital, operations and maintenance as identified in the Seminole County Comprehensive Plan Capital Improvements Element (CIE). Such revenues may be expended for the public transportation services identified in the CIE including but not limited to capital facilities, operations and maintenance. These services may be provided directly by the County or may be contracted for through public or private service providers.

#### **Explanation on Fuel Taxes**

Three separate fuel taxes may be levied by local governments in the State of Florida. These are known as the “Local Option Gas Tax” (LOGT). These taxes consist of three separate levies: the “First Six Cent Tax, which Seminole County levies; a “Second Five Cents Tax”, which Seminole County does not levy; and the “Ninth-Cent Fuel Tax”, which Seminole County levies.

The First Six Cent Gas Tax generates approximately \$6.5 million per year in revenue and per an adopted interlocal agreement is divided between the County and the Cities.

The County receives 64 % of the revenue and the Cities divide the remaining 36%. This LOGT primarily funds road maintenance presently.

The Ninth-Cent Fuel Tax currently generates approximately \$1 .9 million per year. The Board of County Commissioners has dedicated these revenues to fund countywide transit operating expenses. The Cities do not receive any of these revenues but benefit from the provision of transit services from LYNX.

The Second Five Cent Gas Tax, again, is presently not levied in Seminole County. The only neighboring county to assess this LOGT is Volusia County. This tax may be levied at rates ranging from two cents to five cents per gallon of fuel. Approval of this tax would require a voter referendum or a super-majority vote of the Board of County Commissioners.

This is the third fiscal year in a row that the 9¢ gas tax revenue has not met the cost that the County must pay for transit operating services. Staff is looking in the future to have greater flexibility in order to pay for operating expenses. The current 6¢ local option gas tax at this time is primarily dedicated to road maintenance. Should sometime in the future the County adopt what is known as the second 5¢ local option gas tax, which our neighboring County Volusia does, staff would want the flexibility of being able to potentially use some of the gas tax revenues for transit operating expenses.

**Commissioner Hattaway asked about the wording “New policies shall enable the County to make use of any gas tax revenues”. She asked if this was referring to the new 1¢ sales tax?**

Ms. Gilmartin said no. The sales tax is for capital expenses only, this is for transit operating expenses and possibly for capital in the future.

**Motion by Chairman Harris for approval. Second by Commissioner Mahoney.**

**Motion passed unanimously. (5-0)**

*Board of County Commissioners – 9/24/02*

**PROPOSED CIE TEXT AMENDMENT**

Proof of publication, as shown on page \_\_\_\_\_, calling for a public hearing to consider adoption of the Proposed Capital Improvements Element Text Amendment regarding the funding of public transportation, received and filed.

Dick Boyer, Senior Planner, addressed the Board to state in recent years, revenue from the ninth cent gas tax has been insufficient to fully cover transit services. The proposed policy will enable a future Board to make full use of additional funding sources for transit, such as other local option gas taxes, if they wish to do so. He said staff is recommending transmittal of this policy.

Commissioner Henley questioned if it was necessary to take this action now or allow the future Board to do so if they wish. He said he thinks this policy makes it very easy for staff to come up with another resource without exploring all the resources.

Mr. Grace explained this action would recognize in the Comp Plan that the Board has sources available. He would not want the Board to run into a situation where they decide to use that source, but would have to wait for the next Comp Plan cycle because the Comp Plan prohibits the Board from doing that.

Upon inquiry by Chairman McLain, Mr. Grace said the staff could not spend any of the money without the Board's approval. Mr. Grace said this action does not force the Board to do anything.

Commissioner Henley said since the law is in place, he does not think this action is necessary. Mr. Grace stated the intent is not to get the Board to commit to raise the taxes at this time, but to acknowledge in the Capital Improvements Element that these potential revenue sources are available if the Board chooses to use them later.

Commissioner Maloy asked if this also gives the Board flexibility with the current taxes.

Alice Gilmartin, Planning, addressed the Board to state this does give flexibility with the existing gas tax.

Whereupon, Commissioner Maloy recommended amending the language to the Policy to read "The Board of County Commissioners shall, at its discretion. . .", changing the wording from "The County shall. . ." He said that makes it clear that it is the Board's decision.

No one spoke in support or in opposition.

**Motion** by Commissioner Maloy, seconded by Commissioner Van Der Weide, to adopt the proposed Capital Improvements Element Text Amendment regarding the funding of public transportation, with the amended language.

Districts 1, 3, 4, and 5 voted AYE.