

JANUARY 25, 2005

The Regular Meeting of the Board of Lee County Commissioners was held on this date with the following Commissioners present:

Douglas R. St. Cerny, Chairman  
 Tammy Hall, Vice-Chairman  
 Ray Judah  
 John E. Albion  
 Robert P. Janes

The Chairman called the meeting to order at 9:30 a.m. The Invocation was given by Pastor Charles Sullivan Blessed Pope John XXII Catholic Church, followed by the Pledge of Allegiance to the Flag.

### ANNOUNCEMENTS

Referring to the Agenda Revision Recap Sheet dated January 25, 2005, the Chairman announced that:

Carry-Over #1 should be deferred indefinitely. Commissioner Janes explained that the State is not willing to assist in the purchase of the property at this time; stated that he met with Senator Nelson and Congressman Connie Mack who expressed excitement for this project; requested that the Board table the item until the State resolves its objection to the voluntary condemnation; asked that Staff keep the Board posted at future meetings; and thanked County Attorney David M. Owen, Assistant County Attorney Timothy Jones, Assistant County Attorney John J. Renner and staff for their efforts. He further stated that the need to resolve any funding needs with or without the State of Florida, and to invoke public and private participants to create packages. Commissioner Janes moved to defer indefinitely, seconded by Commissioner Hall. Commissioner St. Cerny commended Commissioner Janes on taking the lead in this project. Toby Brigham, Esq., representing the Babcock Family, suggested that the Board request the State to update their appraisals. In response to Commissioner Judah's inquiry, Commissioner Janes clarified that voluntary condemnation would require existing uses continue as is for a five year period. Attorney Brigham clarified that the family has been selling stock to allow continued operation of the company. The motion was called and carried. Commissioner Albion commended Attorney Brigham and the Babcock family on their cooperation throughout this process. Commissioner Judah moved to request that the State update their appraisal information, seconded by Commissioner Hall, called and carried.

Four Walk-On Items will be heard following consideration of the Administrative Agenda.

### 9:30 A.M. AGENDA ITEM - Public Comment on Agenda Items Consent (C) and Administrative (A)

No one came forward to offer comment.

The following are the Consent Agenda items that each Board member wished to have discussed:

Commissioner St. Cerny - None  
 Commissioner Hall - None  
 Commissioner Judah - 5(b)  
 Commissioner Albion - 11(a)  
 Commissioner Janes - None

### CONSENT AGENDA

#### 1. COUNTY ADMINISTRATION

##### (a) **ACTION REQUESTED:**

Approve budget amendment resolutions and transfers from reserves, in various funds, to provide fund financial adjustments for the FY03-04 year-end close out. No additional funding is required, except in those funds in which reserves are affected, as listed in the background information. Reserves represent those that were established during the development of the budget. In some funds for which additional revenues were received, as listed in the background information, the budget is being adjusted to reflect the additional revenues.

##### **WHY ACTION IS NECESSARY:**

Each year, in the preparation of the year-end financial statements, Budget Services requests that certain fund adjustments be processed after the Finance division has made their final cash adjustments in conjunction with auditor findings.

**WHAT ACTION ACCOMPLISHES:**

Year-end adjustments allow the financial books for FY03-04 to be closed. ([#20050031](#)-Budget Services)

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

[RESOLUTION NO. 05-01-37 through 05-01-49](#)

**2. CONSTRUCTION AND DESIGN**

No requests received.

**3. COUNTY COMMISSIONERS**

No requests received.

**4. COMMUNITY DEVELOPMENT****(a) ACTION REQUESTED:**

Accept Petition No. VAC2004-00049, submitted by Patrick C. Hunt, as agent for Arthur and Enid Dillon, to vacate a 12-foot wide public utility easement, on Lots 5 and 6, both in Block 9, Unit 2, Section 21, Township 45 South, Range 27 East, a subdivision recorded in Plat Book 18, Page 55 of Lee County Florida; and adopt a resolution setting a public hearing for 5:00 p.m. on February 22<sup>nd</sup> 2005. The site is located at 717 & 719 Andover Ave. S., Lehigh Acres.

**WHY ACTION IS NECESSARY:**

To build a single-family residence on the combined lots. The vacation of this easement will not alter existing utility conditions, and the easement is not necessary to accommodate any future utility requirements.

**WHAT ACTION ACCOMPLISHES:**

Sets the time and date of the public hearing. (S21-T45S-R27E) (District#5) ([#20041647](#)-Development Services)

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

[RESOLUTION NO. 05-01-50](#)

**(b) ACTION REQUESTED:**

Accept Petition No. VAC2003-00030, submitted by Cody Vaughn-Birch, agent for the owner, to vacate a 33-foot wide right-of-way easement, as shown in Plat Book 60, at Page 73 of the Public Records of Lee County, Florida; and adopt a resolution setting a public hearing for 5:00 p.m. on February 22<sup>nd</sup> 2005. The site is located at 21500/510 Three Oaks Parkway, Estero.

**WHY ACTION IS NECESSARY:**

To facilitate the development of the Estero Fire and Rescue District Station #3 with associated administrative offices. The subject right-of-way is not constructed, the vacation of this right-of-way will not alter traffic conditions, and the right-of-way is not necessary to accommodate any future traffic requirement.

**WHAT ACTION ACCOMPLISHES:**

Setting the time and date of the public hearing. (S34-T46S-R25E) (District#3) ([#20041706](#)-Development Services)

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

[RESOLUTION NO. 05-01-51](#)

**5. HUMAN SERVICES****(a) ACTION REQUESTED:**

Authorize Chairman to sign [State Agreement for the receipt of Challenge Grant funds](#) and [sub recipient agreements](#); [authorize Department of Human Services Deputy Director to sign required grant reports](#); and approve budget resolution for State of Florida FY2005 Challenge Grants in the amount of \$137,500.00 for the County fiscal year 2004-2005.

**WHY ACTION IS NECESSARY:**

To execute agreement, establish budget, and delegate signature authority for grant reporting to the department.

**WHAT THE ACTION ACCOMPLISHES:**

Allows the Department to accept a contract from the State of Florida, proceed with program activities, and execute sub-recipient contracts as well as monthly reports. ([#20050032](#)-Human Services).

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

[RESOLUTION NO. 05-01-52](#)

(b) **ACTION REQUESTED:**

Approve criteria for the Partnering for Results Request for Proposal (RFP) process; and approve FY 2005-2006 funding amount not to exceed \$3,622,154.00. Approve a maximum of \$42,000.00 of the \$3,622,154.00 to be allocated to United Way of Lee County, for the Information & Referral (211) services for FY 2005-2006.

**WHY ACTION IS NECESSARY:**

To provide policy direction and establish budget for the Partnering for Results Request for Proposal process.

**WHAT ACTION ACCOMPLISHES:**

Establishes the RFP guidelines and funding amount for FY 2005-2006 partnering for Results, and approves a maximum of \$42,000.00 to be allocated to United Way. ([#20050043](#)-Human Services)

PULLED FOR DISCUSSION

In response to Commissioner Judah's statement, Social Services Director Ann Arnall stated that interviews were conducted in the past and were found to be biased; that the applications are scored based on a written proposal; and that Committee members are encouraged to request clarification from an agency in writing. Commissioner Judah expressed his support of site visits. Discussion ensued between the Board and Ms. Arnall regarding the attendance of Committee members, staff's assistance during the application process, and the application process. Commissioner Albion recommended that the Committee remain consistent with their decisions as long as it's responsible and fair. Commissioner Hall commended the Committee and staff for including the organizations that are applying for the money to evaluate the process, and suggested that the committee make a recommendation to the Board on how they feel the Community would be best served. Commissioner Albion moved the item with the direction to staff to gather suggestions from the Committee and bring their recommendations, in memo form, to the Board at a Management and Planning meeting, seconded by Commissioner Janes. Commissioner Judah requested an amendment to the motion to require as part of the process that the committee provide an interview with the applicant or an on-site visit, seconded by Commissioner Janes for discussion. Commissioner Janes opined that site visits would delay the process; noted that the applicants would have continuous interaction with the committee; and withdrew his second. The amendment failed for lack of a second. The main motion was called and carried.

6. **INDEPENDENT**

(a) **ACTION REQUESTED:**

Adopt a Resolution of Exchange relating to property located at Estero/Bonita Community Park in Estero; authorize Chairman to execute all [documents necessary to effectuate the exchange](#); authorize the Division of County Lands to handle and accept [all documentation to complete this transaction](#), and approve payment for costs to close in the approximate amount \$500.00.

**WHY ACTION IS NECESSARY:**

Exchange of County property must be approved by the Board of County Commissioners pursuant to Florida Statute.

**WHAT ACTION ACCOMPLISHES:**

Approves the exchange of property between Lee County and Stephanie Miller, Trustee. ([#20041547](#)-County Lands) ([Affidavit](#))

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

[RESOLUTION NO. 05-01-53](#)

(b) **ACTION REQUESTED:**

Authorize the Division of County Lands to make a binding offer to the Corporation of the Presiding Bishop of the Church Of Jesus Christ of Latter Day Saints, in the amount of \$41,800.00, for Parcel 105, for the Three Oaks Parkway Widening Project No. 4081, pursuant to the [Purchase Agreement](#); and authorize the Division of County Lands to handle and accept all documentation necessary to complete transaction.

**WHY ACTION IS NECESSARY:**

The Board must authorize the making of a binding offer to a property owner prior to initiation of condemnation proceedings.

**WHAT ACTION ACCOMPLISHES:**

Makes binding offer to property owner. ([#20041686](#)-County Lands)

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

**(c) ACTION REQUESTED:**

Approve the acquisition of Parcel 203, from Diane L. Jensen Bankruptcy Trustee for Ronald C. Francisco, in the amount of \$55,000.00, for Ten Mile Linear Park Project No. 2001, pursuant to the [Purchase Agreement](#); authorize payment of costs to close; authorize the Division of County Lands to handle all documentation necessary to complete transaction; and rescind purchase agreement approved and accepted on November 9, 2004, under Blue Sheet No. 20041369.

**WHY ACTION IS NECESSARY:**

The Board must accept all real estate conveyances to Lee County.

**WHAT ACTION ACCOMPLISHES:**

The voluntary acquisition of property thus avoiding the Board's need to exercise its power of Eminent Domain. ([#20041710](#)-County Lands)

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

**(d) ACTION REQUESTED:**

Approve [Addendum to an Interlocal Agreement](#) for an Automated Bus Arrival Time System for Ft. Myers Beach, in the amount of \$39,005.00 funded 100% by the Town of Ft. Myers Beach; and approve budget amendment resolution in the amount of \$67, 370.00 for additional revenue and expense for the Automated Bus Arrival Time System.

**WHY ACTION IS NECESSARY:**

Board approval is required on addendum to Interlocal Agreement.

**WHAT ACTION ACCOMPLISHES:**

Provides three additional trolleys with the automated arrival system, and provides additional funding from Ft. Myers Beach to fund the project. ([#20050011](#)-Transit)

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

[RESOLUTION NO. 05-01-54](#)

**7. PUBLIC SAFETY****(a) ACTION REQUESTED:**

Adopt a resolution to approve changing a street name on a platted street as recorded in Plat Book 74, on page 97, of Sherrill Point; to be changed from Sherrill Court to Sherrill Point Court.

**WHY ACTION IS NECESSARY:**

To be in compliance with Lee County Ordinance 04-18.

**WHAT ACTION ACCOMPLISHES:**

This will correct platted street name to the name approved. ([#20041729](#)-E911)

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

[RESOLUTION NO. 05-01-61](#)

**(b) ACTION REQUESTED:**

Authorize Chairman to approve a [Certificate of Public Convenience and Necessity](#) (CON), to the San Carlos Park Fire Protection and Rescue Service District, to conduct advance life support (ALS) non-transport emergency medical service care.

**WHY ACTION IS NECESSARY:**

The Chairman's signature is required to execute the CON.

**WHAT ACTION ACCOMPLISHES:**

Grants the applicant license to provide ALS service, in accordance with State law and provision contained in Lee County Ordinance 02-19. ([#20050030](#)-EMS)

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

**8. SOLID WASTE-NATURAL RESOURCES**

No requests received.

**9. TRANSPORTATION****(a) ACTION REQUESTED:**

Award Professional Services Agreement, for CN-04-06, Plantation Extension from Idlewild Street to Colonial Boulevard, to [T.Y. Lin International](#), for a not-to-exceed contract amount of \$549,512.39. This project has a completion time of 365 calendar days.

**WHY ACTION IS NECESSARY:**

Board approval is required.

**WHAT ACTION ACCOMPLISHES:**

The Consultant will provide professional services for the project known as Plantation Extension, from Idlewild Street to Colonial Blvd., to include design; right-of-way; permitting; drainage; signing; pavement marking and signalization. ([#20050022](#)-Transportation)

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

**(b) ACTION REQUESTED:**

Accept contribution of \$55,426.00, from Sprint, for the cost of relocating proposed drainage line on the Bonita Beach 6-Laning project; approve budget resolution for revenues and expenditures; and amend FY05-09 Capital Improvement Program (CIP).

**WHY ACTION IS NECESSARY:**

Requires Board approval for budget resolutions and amendments to CIP.

**WHAT ACTION ACCOMPLISHES:**

Allows County to accept a contribution from Sprint, in the amount of \$55,426.00, for the cost of relocating proposed drainage line on the Bonita Beach 6-Laning project. ([#20050025](#)-Transportation)

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

[RESOLUTION NO. 05-01-55](#)

**10. UTILITIES****(a) ACTION REQUESTED:**

Approve construction of a water main and force main extension serving Estero Park Commons. This is a developer contributed asset project located at the southwest corner of Corkscrew Road and Corkscrew Palms Boulevard.

**WHY ACTION IS NECESSARY:**

To provide potable water service, fire protection, and sanitary sewer service to this proposed commercial development.

**WHAT ACTION ACCOMPLISHES:**

Provides adequate utility infrastructure to support development of the subject property, and complies with the Lee County Utilities Operations Manual. ([#200401583](#)-Utilities)

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

**(b) ACTION REQUESTED:**

Approve final acceptance, by resolution and recording of one (1) [utility easement](#), as a donation of one (1) 10" diameter fire line serving the Bell Tower Shops Parking Addition. This is a developer contributed asset project located at the northeast corner of S. Cleveland Avenue and Daniels Parkway.

**WHY ACTION IS NECESSARY:**

To provide fire protection to the recently constructed restaurants.

**WHAT ACTION ACCOMPLISHES:**

Places the fire line into operation, and complies with the Lee County Utilities Operations Manual. ([#20041584](#)-Utilities)

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

[RESOLUTION NO. 05-01-56](#)

**(c) ACTION REQUESTED:**

Authorize the Chairman, on behalf of the Board, to approve an [Addendum to the Agreement for the Wholesale Sale of Potable Water](#) by Lee County to the City of Cape Coral, dated January 27, 2004; and approve FY04/05 budget amendment resolution in the amount of \$166,619.00.

**WHY ACTION IS NECESSARY:**

An addendum to the original interlocal agreement is required so that Lee County Utilities may sell potable water on a wholesale basis to, and as requested by, the City of Cape Coral over an initial period of 20 years so that it may provide water service to the developing portions of the City. In addition, the addendum provides for the sale of the County's water main along a portion of Pondella Road to the City for the amount of \$166,618.66.

**WHAT ACTION ACCOMPLISHES:**

The addendum will establish an increase in capacity to be purchased, transfer of ownership of facilities, location of interconnects, and responsibilities of each party. ([#20050008](#)-Utilities)

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

[RESOLUTION NO. 05-01-57](#)

## 11. PARKS AND RECREATION

### (a) **ACTION REQUESTED:**

Approve [budget transfer](#) from Capital Improvement-Conservation 2020 land acquisition fund #30103 to Conservation 2020 operating fund #30105 in the amount of \$1,907,234.00; carryover \$2,727,024.00 from FY 03/04 to FY 04/05; and approve budget amendment resolution in the amount of \$4,634,258.00. These funds are being set up in a new business unit for tracking of all Florida Communities Trust (FCT) projects.

### **WHY ACTION IS NECESSARY:**

Board is required to approve all budget transfers, carryovers, and budget amendments.

### **WHAT ACTION ACCOMPLISHES:**

Allows establishment of new business unit to track all Conservation 2020/FCT projects. ([#20050033](#)-Parks and Recreation)

## PULLED FOR DISCUSSION

At the request of Commissioner Albion, Public Parks and Recreation Director John Yarbrough clarified that prior to this request all of the FCT funding had been allocated at the 90/10 split, and that this is a request to deviate from that allocation; and explained that the three projects (Caloosahatchee Creeks Preserve, San Carlos Bay – Bunche Beach Preserve and Prairie Pines Preserve), will be the first highly visible, highly used public access facilities.

Commissioner Albion moved the item, seconded by Commissioner Janes, called and carried.

[RESOLUTION NO. 05-01-58](#)

## 12. COUNTY ATTORNEY

No requests received.

## 13. HEARING EXAMINER

No requests received.

## 14. PORT AUTHORITY

No requests received.

## 15. CONSTITUTIONAL OFFICERS

### (a) **ACTION REQUESTED:**

Approve [disbursements](#).

### **WHY ACTION IS NECESSARY:**

Florida Statute Chapter 136.06(1) requires that all County disbursements be recorded in the Minutes of the Board.

### **WHAT ACTION ACCOMPLISHES:**

Compliance with the requirements of FS 136.06(1). ([#20041685](#)-Clerk of Courts)

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

### (b) **ACTION REQUESTED:**

Present for information purposes, the [Monthly Financial Report for the Month of December 2004](#).

### **WHY ACTION IS NECESSARY:**

To provide interim reporting on selected funds and revenues of the Lee County Board of County Commissioners; and also included, in compliance with Chapter 218.415 Florida Statutes, Local Government Investment Policies, is the stated and fair market value of the investments managed by the Clerk's Office. Pursuant to Lee County Ordinance 02-28, activity for the Driver's Education Safety Trust Funds, is included.

### **WHAT ACTION ACCOMPLISHES:**

The purpose of this report is to convey to the Board the financial status of selected significant funds of the Lee County Board of County Commissioners, the status of specific revenues as of the stated dates, and the market value of the investments managed by the Clerk's Office on behalf of the Board.

([#20041695](#)-Clerk of Courts)

Commissioner Janes moved the item, seconded by Commissioner Hall, called and carried.

**ADMINISTRATIVE AGENDA****1. COUNTY ADMINISTRATION**

No requests received.

**2. CONSTRUCTION AND DESIGN**

No requests received.

**3. COUNTY COMMISSIONERS**

No requests received.

**4. COMMUNITY DEVELOPMENT****(a) ACTION REQUESTED:**

Approve a reduction in demolition and lot mowing liens totaling approximately \$33,139.57 down to \$3,000.00 for five parcels located in Lee County: 8220 Penny Drive, 3404 Katherine Street, 3733 Michigan Avenue, 8165 Heck Drive, and 5529 Fourth Avenue. The reduced lien amount is payable within 60 days from sale or Board approval.

**WHY ACTION IS NECESSARY:**

Board approval is required for mitigation of county liens.

**WHAT ACTION ACCOMPLISHES:**

Allows lien to be released. ([#20041628](#)-Building Department)

Commissioner Judah moved the item, seconded by Commissioner Janes, called and carried.

**5. HUMAN SERVICES**

No requests received.

**6. INDEPENDENT**

No requests received.

**7. PUBLIC SAFETY**

No requests received.

**8. SOLID WASTE-NATURAL RESOURCES**

No requests received.

**9. TRANSPORTATION**

No requests received.

**10. UTILITIES**

No requests received.

**11. PARKS AND RECREATION**

No requests received.

**12. COUNTY ATTORNEY**

No requests received.

**13. HEARING EXAMINER**

No requests received.

**14. PORT AUTHORITY**

No requests received.

**15. CONSTITUTIONAL OFFICERS****WALK-ON ITEM NO. 1****5. HUMAN SERVICES****(a) ACTION REQUESTED:**

Authorize Chairman to sign [Grant Certification Form for Grant Application](#) to the Florida Housing Finance Corporation.

**WHY ACTION IS NECESSARY:**

The certification form is required to submit the grant application.

**WHAT ACTION ACCOMPLISHES:**

Allows the Department of Human Services to apply for additional grant funding. ([#20050062](#)-Human Services)

Commissioner Judah moved the item, seconded by Commissioner Janes, called and carried.

**WALK-ON ITEM NO. 2****10. UTILITIES****(a) ACTION REQUESTED:**

Authorize the Chairman, on behalf of the Board, to sign as the Chief Official of the Subgrant Recipient for Lee County Utilities [certification of acceptance of Subgrant award](#), for a Florida Department of Law Enforcement's Law Enforcement Terrorism Prevention Program Grant, in the amount of \$120,000.00; and approve budget amendment resolution for \$120,000.00.

**WHY ACTION IS NECESSARY:**

Required by each agency's regulations.

**WHAT ACTION ACCOMPLISHES:**

Establishes the Board as being the Subgrant Recipient of the Grant, and this Certificate constitutes official acceptance of the award which must be received by the FDLE prior to any reimbursement of project expenditure. ([#20050045](#)-Utilities)

Commissioner Judah moved the item, seconded by Commissioner Janes, called and carried.

[RESOLUTION NO. 05-01-59](#)

**WALK-ON ITEM NO.3****7. PUBLIC SAFETY****(a) ACTION REQUESTED:**

Authorize Chairman to approve a [Certificate of Public Convenience and Necessity](#) (CON), to the Bonita Springs Fire Control and Rescue District, to conduct advance life support (ALS) non-transport emergency medical service care.

**WHY ACTION IS NECESSARY:**

The Chairman's signature is required to execute the CON.

**WHAT ACTION ACCOMPLISHES:**

Grants the applicant license to provide ALS service in accordance with State law and provision contained in Lee County Ordinance 02-19. ([#20050068](#)-Public Safety)

Commissioner Judah moved the item, seconded by Commissioner Hall, called and carried.

**WALK-ON ITEM NO.4****3. COUNTY COMMISSION****(a) ACTION REQUESTED:**

Discuss and consider entering into an [Employment Agreement](#) with David M. Owen for services to be performed as the Lee County Attorney. If approved by the Board, authorize the Chairman to execute same on behalf of the Board.

**WHY ACTION IS NECESSARY:**

All Employment Agreements must be approved by the Board.

**WHAT ACTION ACCOMPLISHES:**

Allows the Board of County Commissioners to discuss the County Attorney Employment Agreement and take potential action. ([#20050073](#)-County Commission)

Commissioner Judah moved the item, as amended, and including the [January 24<sup>th</sup> document](#), seconded by Commissioner Hall. The Board congratulated Attorney David M. Owen on becoming the new County Attorney; and thanked Deputy County Attorney Robert W. Gray for serving as Interim County Attorney. The motion was called and carried

**CARRY-OVER ITEM NO. 1**

**12. COUNTY ATTORNEY**

(a) **ACTION REQUESTED:**

Approve resolution of necessity to initiate eminent domain action to acquire all outstanding shares of stock of The Babcock Florida Company.

**WHY ACTION IS NECESSARY:**

Resolution of necessity is condition precedent to filing eminent domain action.

**WHAT ACTION ACCOMPLISHES:**

Authorize filing of eminent domain action. ([#20050044](#)-County Attorney)

DURING THE ANNOUNCEMENT PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: Carry-Over #1 should be deferred indefinitely. Commissioner Janes explained that the State is not willing to assist in the purchase of the property at this time; stated that he met with Senator Nelson and Congressman Connie Mack who expressed excitement for this project; requested that the Board table the item until the State resolves its objection to the voluntary condemnation; asked that Staff keep the Board posted at future meetings; and thanked County Attorney David M. Owen, Assistant County Attorney Timothy Jones, Assistant County Attorney John J. Renner and staff for their efforts. He further stated that the need to resolve any funding needs with or without the State of Florida, and to invoke public and private participants to create packages. Commissioner Janes moved to defer indefinitely, seconded by Commissioner Hall. Commissioner St. Cerny commended Commissioner Janes on taking the lead in this project. Toby Brigham, Esq., representing the Babcock Family, suggested that the Board request the State to update their appraisals. In response to Commissioner Judah's inquiry, Commissioner Janes clarified that voluntary condemnation would require existing uses continue as is for a five year period. Attorney Brigham clarified that the family has been selling stock to allow continued operation of the company. The motion was called and carried. Commissioner Albion commended Attorney Brigham and the Babcock family on their cooperation throughout this process. Commissioner Judah moved to request that the State update their appraisal information, seconded by Commissioner Hall, called and carried.

**COMMISSIONER ITEMS**

**LETTER** – Commissioner Janes stated that a letter should be sent to Florida Governor Jeb Bush requesting the appointment of Carol Green as Secretary of Elder affairs and so moved, seconded by Commissioner Judah, called and carried.

**BABCOCK RANCH** – Commissioner Janes thanked the Board for their support in the Babcock Ranch acquisition/negotiations. Commissioner Albion thanked Assistant County Attorney Andrea R. Fraser and Assistant County Attorney Dawn E. Lehnert for assisting in the preparation of the County Attorney Agreement and hiring process.

**BOOMER PROPERTY ACQUISITION** – Commissioner Judah stated that the applicant/property owner is strongly requesting the condition to the acquisition entail that the property would be protected from perpetuity. In response to Commissioner Judah's inquiry, County Lands Acquisition Program Manager Robert G. Clemens stated anytime a restriction is placed it affects the property value, and noted that negotiations would come back to the Board. Commissioner Judah noted that if there are conditions placed on the property it would lower the properties value, reiterated his request to protect the use of Conservation 2020 lands.

**ANNEXATION OF THE ZEMMEL PROPERTY BY CAPE CORAL** – Commissioner Judah expressed his opposition to the annexation of the property. At the request of Commissioner Judah, Chairman St. Cerny requested that Assistant County Attorney Timothy Jones represent the Board.

**PENDING GROWTH MANAGEMENT BILL** – Commissioner Judah request that the Board send a letter to the legislative delegation, noting that the Board does not support eliminating the planning review for phosphate mines, seconded by Commissioner Janes. Chairman St.Cerny requested that Commissioner Judah get with Administration to draft the letter. In response Commissioner Albion’s inquiry, Deputy County Attorney Robert W. Gray opined that if the courts see the legislature lessened the significance by decreasing the impact, they could take a different view after analyzing the Counties litigation. The motion was called and carried.

**MARINA PUBLIC ACCESS** – Commissioner Judah request the possibility of acquisition of the Fisherman’s Co-op, and requested that staff look into the feasibility of purchasing Mr. Cauthen property and report at the next Management and Planning Meeting.

**EXPRESSWAY AUTHORITY BILL** – Commissioner Judah requested that Lee County Lobbyist Keith Arnold create a plan to support the Expressway Authority Bill. Commissioner Judah moved the item, seconded by Commissioner Hall. Commissioner Albion requested that a letter be drafted expressing support of Representative Davis going forward with his Bill for the Expressway Authority. After discussion between the Board members on whether a letter had already been done, Chairman St. Cerny noted if one had not been sent he would direct staff to draft a letter for his signature. The motion was called and carried.

IMMEDIATELY PRIOR TO THE 5:00 PM AGENDA ITEM:

**CREATION OF COUNTY-WIDE MINORITY BOARD** - Commissioner Judah suggested that, as a result of the disruptive behavior on the Black Affairs Advisory Board (BAAB), the Board of County Commissioners should remove the person causing the problems or the group should be disband; and requested that the Board create a County-wide Minority Board.

**COMMITTEE APPOINTMENTS**

Commissioner Janes moved to appoint Mark Strom to the **BYCYCLE ADVISORY COMMITTEE**, seconded by Commissioner Albion, called and carried.

Commissioner Albion moved to appoint Bonnie S. Garrison to the **PARTNERING FOR RESULTS PROPOSAL REVIEW PANEL**, seconded by Commissioner Hall, called and carried.

**COUNTY MANAGER ITEMS**

County Manager Donald D. Stilwell had nothing to offer.

**COUNTY ATTORNEY ITEMS**

County Attorney David M. Owen had nothing to offer.

**5:00 P.M. AGENDA ITEM** - Public Hearing

AT THIS TIME COMMISSIONER JUDAH MADE A COMMENT REGARDING THE BLACK AFFAIRS ADVISORY BOARD (BAAB). SEE THE COMMISSIONER’S ITEM PORTION OF THE MEETING FOR DISCUSSION.

1) **ACTION REQUESTED:**

Conduct a public hearing to adopt a resolution on Petition #VAC2004-00060, submitted by Laniel Howard, Jr. and Kenya S. McDaniel, to vacate a twelve-foot wide public utility easement centered on the common lot lines between Lots 13 and 14, Unit 3, a subdivision of Lehigh Acres, as recorded in Plat Book 15, Page 77, Official Public Records of Lee County, Florida, less and except the northerly six feet and southerly six feet thereof. The site is located at 3810 6<sup>th</sup> Street West.

**WHY ACTION IS NECESSARY:**

To build a single family residence on the combined lots. The vacation of these easements will not alter existing utility conditions, and the easements are not necessary to accommodate any future utility requirements.

**WHAT ACTION ACCOMPLISHES:**

Vacates the public utility easements.

There are no objections to this Petition to Vacate.

(S27-T44S-R26E) (District #5) ([#20050012](#)-Development Services)

Assistant County Attorney Joan Henry approved as to legal form and sufficiency, the [Affidavits of Publication](#) for 5:00 p.m. Agenda Item (1); and briefly described this request. Commissioner Janes moved approval, seconded by

Commissioner Judah. The Chairman called for public input; however, no one came forward. The motion was called and carried. [RESOLUTION NO. 05-01-60](#)

**5:05 P.M. AGENDA ITEM**

(1) Public Presentation of Matters by Citizens

The following persons spoke in opposition to a citizen's proposal for renaming Lee County:

Florida League of the South Chairman [Robert Lloyd](#)  
 Fort Myers resident [Shellie Weber](#)  
 Sons of Confederate Veterans member [Larry Skipper](#)  
 Sons of Confederate Veterans member [Robert Gates](#)  
 Order of the Confederate Rose member [Matilda S. Geffert](#)  
 Sons of Confederate Veterans member [Sean McFall](#)  
 Sons of Confederate Veterans member [Gary Vickers](#)

Black Affairs Advisory Board (BAAB) member [Anthony Thomas, Jr.](#) stated his preference for the renaming of Lee County. ([handout](#))

Commissioner Albion stated that he doubted that the Board had any interest in changing the name of Lee County; explained that Robert E. Lee did not own slaves, but fought for the South because he was a Virginian; and clarified the purpose of the Board and the Black Advisory Board, which is to focus on a number of important issues in Lee County. Commissioner Judah concurred with Commissioner Albion, and expressed his concern of the disruption in the Black Advisory Board; and as a liaison of the Black Advisory Board would request that the Board create a County-wide Minority Advisory Committee. The Chairman requested further discussion and information to be brought to the Board at the February 7<sup>th</sup> Management and Planning Meeting after Commissioner Judah attends the meeting of the various minority communities on Monday January 31, 2005. He further requested that each Board member be copied on the Ordinance governing the Black Affairs Advisory Board.

The Chairman adjourned the meeting at 5:42 p.m.

ATTEST:  
 CHARLIE GREEN, CLERK

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 Deputy Clerk

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[Chairman, Lee County Commission](#)