

FEBRUARY 15, 2011

The [Regular Meeting](#) of the [Board of Lee County Commissioners](#) was held on this date with the following Commissioners present:

Frank B. Mann, Chairman
 John Manning, Vice Chairman
 Tammara Hall
 Ray Judah
 A. Brian Bigelow

The Chairman called the meeting to order at 9:30 a.m. The Invocation was given by Chairman Frank Mann, followed by the Pledge of Allegiance to the Flag.

PRESENTATIONS

Public Resources Director Libby Walker announced the 20th Annual Paulette Burton Citizen of the Year Award. Following comments from Ms. Burton's daughters, Sandy Kerry and Sarah Cadwell; Ms. Walker acknowledged the runners-up, and announced the winner of this year's award as B. J. Gerald. On behalf of the many volunteers, Ms. Gerald accepted the award. ([#20110103](#)-Public Resources)

Human Resources Manager Christine Brady read and presented the 2010 Annual Candy Pittro Memorial Award, and recognized Lee County employees who, while faced with adversity, maintained a positive attitude toward their job and life in general and inspired others. Ms. Brady congratulated the nominees and announced the winner of this year's award was Raymond Herrmann of Solid Waste. Mr. Herrmann accepted the award and thanked everyone. ([#20110038](#)-Human Resources)

ANNOUNCEMENTS

Referring to the Agenda [Recap Sheet](#) dated February 15, 2011, the Chairman announced that:

One Carry-over item would be taken at the appropriate time and One Walk-on item would be taken as the final agenda item.

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

C12(a) – Sanibel resident [Darla Letourneau](#)
 CO 1 – Bonita Springs resident [Jack Meeker](#)

There were no Consent Agenda items pulled for discussion by the individual Commissioners.

CONSENT AGENDA

1. COUNTY ADMINISTRATION

No requests received.

2. COMMUNITY DEVELOPMENT

No requests received.

3. CONSTRUCTION AND DESIGN

No requests received.

4. COUNTY COMMISSIONERS

No requests received.

5. COUNTY LANDS

No requests received.

6. HUMAN SERVICES

No requests received.

7. INDEPENDENT

No requests received.

8. NATURAL RESOURCES/ SOLID WASTE**A) ACTION REQUESTED/PURPOSE:**

Request permission from the Board to reduce temporary labor for Solid Waste provider, Pacesetter Personnel Services, performance guaranty, currently in the form of a performance bond from \$318,000.00 annually to \$240,000.00 for quote Q-090460 Temporary Labor for Solid Waste. Due to a county wide decrease in temporary labor services provided by Pacesetter Personnel Services, vendor has requested to have the amount of their performance bond reduced. ([#20110083-SOLID WASTE](#))

FUNDING SOURCE:

Multiple sources.

WHAT ACTION ACCOMPLISHES:

Allows the awarded vendor, Pacesetter Personnel Services, to reduce their acquisition costs for the required performance bond based on diminishing county requirements for temporary labor services.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried.

B) ACTION REQUESTED/PURPOSE:

Adopt and authorize the Chair to sign the revised [Internal Reliability Compliance Program \(IRCP\)](#) established for the Lee County Resource Recovery Facility as recommended by the North American Electric Reliability Corporation (NERC) and the Florida Reliability Coordinating Council (FRCC). ([#20110096-SOLID WASTE](#))

FUNDING SOURCE:

Funds are budgeted in the Solid Waste Enterprise Fund, Operations-Disposal budget for compliance monitoring.

WHAT ACTION ACCOMPLISHES:

Establishes a revised internal quality control program to maintain compliance with governmental regulations promulgated by the Federal Energy Regulatory Commission and administered through NERC and FRCC. The revised IRCP conforms to FRCC requirements pursuant to the Settlement Agreement between Lee County and FRCC dated 10/16/10.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried.

9. PARKS AND RECREATION

No requests received.

10. PUBLIC SAFETY

No requests received.

11. PUBLIC WORKS ADMINISTRATION

No requests received.

12. TRANSPORTATION**A) ACTION REQUESTED/PURPOSE:**

Award B-11-09 County-wide Roadway Resurfacing Improvements, Contract 1 FY 11 to the lowest responsive, responsible bidder meeting all bid requirements, [C.W. Roberts](#)

[Contracting](#) (a local Contractor) in the not-to-exceed amount of \$1,157,355.00, with a project completion time of 180 calendar days. Also, authorize Chair to execute contract on behalf of the Board upon receipt. ([#20110025-TRANSPORTATION](#))

FUNDING SOURCE:

Fund – Transportation Capital Improvement; Program – Capital Improvement Projects.

WHAT ACTION ACCOMPLISHES:

Provides a Contractor for the rebuilding and resurfacing of approximately 120 streets within Lehigh Acres.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried.

13. UTILITIES

A) **ACTION REQUESTED/PURPOSE:**

Interlocal Agreements (BS 20110030/18445, SIV-SDG): Authorize Chair, on behalf of the Board, to approve the Interlocal Agreements for Emergency Potable Water Interconnect between:

- 1) [Lee County and Bonita Springs Utilities, Inc. \(BSU\)](#)
- 2) [Lee County and the Town of Fort Myers Beach \(Town\)](#)

Also, approve [Budget Transfer](#) in the amount of \$790,000.00 from the Corkscrew Road & I-75 Interchange Project (CIP 7158) to the Water Main Interconnect with Bonita Springs Utility project (CIP 7604), and amend the FY10/11 CIP budget accordingly.

([#20110030-UTILITIES](#))

FUNDING SOURCE:

Fund: Utilities Capital Improvements; Program: Capital Projects; Project: Water Main Interconnect with Bonita Springs Utilities.

WHAT ACTION ACCOMPLISHES:

This agreement allows for the sale and purchase of water during emergencies between Lee County and Bonita Springs Utilities (BSU). Also, allows for the transfer of water between the BSU water distribution system and the Town's system in the event of an emergency.

MANAGEMENT RECOMMENDATION:

Approval.

Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried.

B) **ACTION REQUESTED/PURPOSE:**

Award B-11-10 US 41 Transmission Line Improvements, for the Division of Lee County Utilities (LCU), to the lowest, responsive, responsible bidder, [Guymann Construction of Florida Inc.](#) (a local contractor), for a total not-to-exceed amount of \$556,896.99, with a total project completion time of 180 calendar days. Also, authorize Chair to execute contract on behalf of the Board upon receipt. ([#20110089-UTILITIES](#))

FUNDING SOURCE:

Fund: Utilities Water Connection Fees; Program: Capital Projects; Project: US41 North Fort Myers Watermain Replacement/Upgrade.

WHAT ACTION ACCOMPLISHES:

Provides the County with a Contractor to install approximately 6,100 feet of 16-inch DIP water main replacing existing 8-inch AC water main.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried.

14. COUNTY ATTORNEY

No requests received.

15. HEARING EXAMINER

No requests received.

16. CONSTITUTIONAL OFFICERS**A) ACTION REQUESTED/PURPOSE:**

Approve [disbursements](#). The check and wire registers can now be viewed on the Clerk's Website at WWW.LEECLERK.ORG by accessing the BoCC Minutes and Documents link. ([20110104](#)-FINANCE)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

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

MANAGEMENT RECOMMENDATION:

Compliance with the requirements of FS 136.06 (1).

Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried.

B) ACTION REQUESTED/PURPOSE:

Approve the Minutes for the following meetings of the Board of County Commissioners held during the week of January 31 through February 5, 2011:

February 1, 2011 (Regular)
February 5, 2011 (Special County Attorney Interviews)
January 11, 2011 (Special at Port - inadvertently missed)

([#20110106](#)-MINUTES)

FUNDING SOURCE:

Not Applicable.

WHAT ACTION ACCOMPLISHES:

Approval of the Board Minutes, pursuant to Florida Statute 286.011.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried.

C) ACTION REQUESTED/PURPOSE:

Approve disbursement of excess funds resulting from the sale of tax deed certificates to the claimants verified and certified under Florida Statutes 197.582 as follows:

Tax Deed No.	Payee	Amount
2009-003420	Lois M. Christie	\$229.95
2009005443	Carolyn Freeman	\$763.51
2009005799	Magaly Diaz	\$1,145.74
	Antonio J. Diaz	\$1,145.73
2010000607	Helen Perry	\$237.76
2010000607	Paul Cournoyer	\$237.76
2010001234	City of Cape Coral	\$13.86

([#20110107](#)-DELINQUENT TAX)

FUNDING SOURCE:

Proceeds from a tax deed sale in excess of the taxes and/or liens owed are being held by the Board for disbursements in accord with Florida Statutes, Chapter 197.

WHAT ACTION ACCOMPLISHES:

Provides for disbursement of excess tax deed proceeds to an appropriate claimant in compliance with statutory rules and requirements.

MANAGEMENT RECOMMENDATION:

Approve disbursement to identified claimant.

Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried.

17. PORT AUTHORITY AND OTHER GOVERNING BOARDS

No requests received.

ADMINISTRATIVE AGENDA**1. COUNTY ADMINISTRATION**

No requests received.

2. COMMUNITY DEVELOPMENT

No requests received.

3. CONSTRUCTION AND DESIGN

No requests received.

4. COUNTY COMMISSIONERS

No requests received.

5. COUNTY LANDS

No requests received.

6. HUMAN SERVICES

No requests received.

7. INDEPENDENT

No requests received.

8. NATURAL RESOURCES/ SOLID WASTE

No requests received.

9. PARKS AND RECREATION

No requests received.

10. PUBLIC SAFETY**A) ACTION REQUESTED/PURPOSE:**

Approve budget amendment resolution to reduce the E-911 System fund #15201, \$1,565,725.00 because a sub fund transfer will not be executed. The [transfer](#) amount instead will be used for equipment upgrades and renovations paid from the E-911 operating fund #15200. ([#20110080](#)-PUBLIC SAFETY)

FUNDING SOURCE:

E 9-1-1 User Fees.

WHAT ACTION ACCOMPLISHES:

Allows the Public Safety E 9-1-1 Program to provide for and maintain hardware and software equipment for a countywide Enhanced 9-1-1 System.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Hall moved approval, seconded by Commissioner Judah, called and carried.

[RESOLUTION NO. 11-02-09](#)

11. PUBLIC WORKS ADMINISTRATION

No requests received.

12. TRANSPORTATION

No requests received.

13. UTILITIES

No requests received.

14. COUNTY ATTORNEY

No requests received.

15. HEARING EXAMINER

No requests received.

16. CONSTITUTIONAL OFFICERS

No requests received.

17. PORT AUTHORITY AND OTHER GOVERNING BOARDS

No requests received.

9:30 AM PUBLIC HEARING**1. ACTION REQUESTED/PURPOSE:**

Conduct a Public Hearing to adopt a Resolution on Petition to Vacate VAC2010-00012, submitted by Mohammed Rahman on behalf of NUHA, LLC, to vacate portions of the twelve-foot (12') wide Public Utility Easements centered on the common lot line between lots 1 and 2, 2 and 3, 3 and 4, 4 and 5, 5 and 6 together with the 6-foot wide Public Utility Easement on lot 6 along the common lot line with lot 7 less and except the 6-foot wide perimeter easement abutting roadway rights-of-way, all in Block 23, Unit 5 Lehigh Acres recorded in Plat Book 15 at Page 85 of the Public Records of Lee County, Florida.

(#20101260-COMMUNITY DEVELOPMENT)

FUNDING SOURCE:

No funding required.

WHAT ACTION ACCOMPLISHES:

Extinguishes portions of the public utility easements eliminating the associated encumbrances to facilitate development of the unified site as a convenience food and beverage store. The partial easement vacation will not alter existing drainage and utility conditions, and the easement is not necessary to accommodate any future drainage and/or utility requirements.

MANAGEMENT RECOMMENDATION:

Approve.

Assistant County Attorney Michael Jacob approved as to legal form and sufficiency, the [Affidavit of Publication](#) for the 9:30 a.m. Agenda Item No. 1; and briefly reviewed this request. Commissioner Manning moved approval, seconded by Commissioner Hall. The Chairman called for public input; however, no one came forward. Following comments from the Board, the motion was called and carried.

[RESOLUTION NO. 11-02-10](#)

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: WALK-ON ITEM NO. 1 WOULD BE TAKEN AS THE FINAL AGENDA.

WALK-ON ITEM NO. 1**7. INDEPENDENT****ACTION REQUESTED/PURPOSE:**

Board discussion with selected County Attorney candidate. (#20110121-HUMAN RESOURCES)

FUNDING SOURCE:

N/A

At the request of the Chairman, Selected County Attorney Michael Hunt spoke of his family, hobbies, and career. During Board discussion: Commission Hall requested that a clause for termination without cause be considered during the contract negotiations. Chairman Mann noted that Mr. Hunt had been provided a copy of a suggested contract, and it was noted that the Board members would be provided a copy of the suggestions of the Attorney's Office. Commissioner Judah distributed his [written questions](#) (copy on file in the Minutes Office) to Mr. Hunt, the

Board, County Manager and Minutes Clerk. Commissioner Bigelow requested equity for Contract Employees related to vacation provisions.

CARRY-OVER ITEM NO. 1

1. COUNTY ADMINISTRATION

ACTION REQUESTED/PURPOSE:

Consider [VR Laboratories, LLC](#) (Project #LC-10-11-01) incentive request for a \$5,000,000.00 grant from the Lee County First Program Project #LC-10-11-01 consists of a pharmaceutical grade ingredients and products manufacturing facility, research and development laboratories, and company headquarters. ([#20110094-ECONOMIC DEVELOPMENT](#)).

FUNDING SOURCE:

General Fund – Economic Development Opportunities.

WHAT ACTION ACCOMPLISHES:

Furthers the goal of diversifying Lee County's economy through the creation of high-paying, target industry based employment.

MANAGEMENT RECOMMENDATION:

Approve.

REASON FOR CARRY OVER:

Deferred on December 14, 2010.

Commissioner Hall moved approval, seconded by Commissioner Judah for discussion. Economic Development Director Jim Moore provided a brief presentation of the incentive request and introduced the investor and personnel of VR Laboratories, LLC. VR Laboratories, LLC Executive Chairman Reginald Steele addressed the Board and briefly explained the company's proposal. Following Board comments and appreciation to Lee County personnel involved in this project, the motion was called and carried, with Commissioner Bigelow voting nay.

COMMISSIONER ITEMS

SANTA BARBARA BOULEVARD/VETERANS PARKWAY OVERPASS – Commissioner Judah noted that the Mayor of Cape Coral and the Council opposed to the overpass, and suggested that the Department of Transportation provide clarification on the use of the bridge surplus toll revenue. During discussion, Assistant County Manager Doug Meurer offered to provide a summary of the meetings held with the City of Cape Coral Staff to be brought back to the next Management and Planning (M&P) meeting sometime in April 2011.

SEAFARER'S MALL PROPERTY – After noting that he had met with Town of Fort Myers Beach Mayor Larry Kiker and Town Manager Terry Stewart, Commissioner Bigelow asked if there were three (3) votes from the Board, would there be support to move forward with the Town's request to take possession of the property? Commissioner Hall suggested this item be taken in an M&P meeting, while Chairman Mann noted this item had been discussed at the Tourist Development Council (TDC) meeting the other day, and suggested that this be taken up at the next TDC meeting.

COMMITTEE APPOINTMENTS

Commissioner Manning moved to reappoint Morgan Porter to the **CHERRY/BLUEBERRY IMPROVEMENT UNIT ADVISORY COMMITTEE**, reappoint Orv Curry to the **PARTNERING FOR RESULTS COMMITTEE**, and appoint Carmen Rey-Gomez ([RESOLUTION NO. 11-02-11](#)) to the **HISPANIC AFFAIRS ADVISORY BOARD**, seconded by Commissioner Hall, called and carried.

Commissioner Bigelow moved to appoint Paul Moreno to the **RUSSELL PARK STREETLIGHTING UNIT ADVISORY COMMITTEE**, and Dana Kinnard to the **PARTNERING FOR RESULTS COMMITTEE**, seconded by Commissioner Hall, called and carried.

Commissioner Judah moved to appoint Councilman Slachta to the **HUMAN SERVICES COUNCIL**, and reappoint Christine Glancy and Scott Brenner to the **PARTNERING FOR RESULTS COMMITTEE**, seconded by Commissioner Hall, called and carried.

COUNTY MANAGER ITEMS

Assistant County Manager Pete Winton provided an update of the cross function of the [Finance and Taxation Committee](#) that had recently been formed with nine (9) members (copy on file in the Minutes Office). Mr. Winton briefly noted the purpose of the committee, and reported that meetings will be held monthly. Board discussion ensued with Mr. Winton responding to questions. Commissioner Manning left the meeting briefly. Chairman Mann thanked all the volunteers for their time.

County Manager Karen Hawes read a prepared statement regarding [equity of furloughs for County union employees and non-union employees](#) (copy on file in the Minutes Office). Board discussion ensued with Ms. Hawes responding to questions. Commissioner Manning moved to direct County management to continue to strive for equal treatment for all employees, seconded by Commissioner Judah. Following further discussion, the motion was called and carried with Commissioner Bigelow dissenting.

COUNTY ATTORNEY ITEMS

Interim County Attorney Andrea R. Fraser advised the Board that the RCH v. Lee County Mediation case will be on February 25, 2011, and requested that a Board member be appointed as a representative to be present during the mediation.

The Chairman adjourned the meeting at 11:18 a.m.

ATTEST:
CHARLIE GREEN, CLERK

Deputy Clerk

[Chairman, Lee County Commission](#)