

APRIL 12, 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
 Ray Judah
 Tammara Hall
 A. Brian Bigelow (arrived at 9:32 a.m.)

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

ANNOUNCEMENTS WERE HEARD AT THIS TIME. SEE THAT PORTION OF THE MEETING.

PRESENTATIONS

WALK-ON ITEM NO. 1 WAS HEARD AT THIS TIME. SEE THAT ITEM FOR ACTION TAKEN.

Commissioner Bigelow read and presented a Ceremonial Resolution proclaiming the month of April 2011 as Water Conservation Month in Lee County. Southwest Florida Water Management District (SFWMD) Service Center Director Phil Flood, accompanied by Assistant County Manager Doug Meurer, accepted the Resolution; and thanked the Board. (#20110281-Commissioner Bigelow)

Florida Bicycle Association Program Director Dan Moser presented the Board with the Florida Bicycle Association's 2011 Elected Officials of the Year Award. Chairman Mann, on behalf of the Board, accepted the award; and thanked Mr. Moser. (#20110282-Public Resources)

The Length of Service Awards for the 1st Quarter of 2011 were presented by Human Resources Manager Christine Brady. See the Agenda back-up material for a listing of the employees recognized. (#20110233-Human Resources)

ANNOUNCEMENTS

Referring to the Agenda Recap Sheet dated April 12, 2011, the Chairman announced that:

Due to scrivener's error, Item CP 3 should be revised to read as: Employee Length of Service Awards. (#20110223-Human Resources).

Consent Agenda Item 16(b), under **ACTION REQUESTED/PURPOSE**, should be revised to read as follows: Approve the Minutes of the following Meetings of the Board of County Commissioners held during the week of March 28 through April 1, 2011: March 29, 2011 (Regular). Commissioner Judah moved approval, seconded by Commissioner Manning, called and carried with Commissioner Bigelow absent.

Walk-on Item No. 2 would be heard at the appropriate time.

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

The Chairman called for public comment and the following concerned citizens came forward:

A1(a) – Former Fort Myers Mayor James T. Humphrey
 A1(a) – Fort Myers Beach Mayor Larry Kiker
 A1(a) – Fort Myers Beach Chamber of Commerce President John Albion
 WO 2 – National Swim Center Corporation representative Lauri Albion

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

CONSENT AGENDA

1. COUNTY ADMINISTRATION

A) ACTION REQUESTED/PURPOSE:

Authorize Budget Amendment Resolutions for the receipt of \$78,910,279.00 of bond proceeds from the Water & Sewer Refunding Revenue Bonds, Series 2011. Also, approve various budget resolutions and [transfers](#) within the Lee County Utilities funds.

(#20110268-COUNTY MANAGER)

FUNDING SOURCE:

Bond Proceeds.

WHAT ACTION ACCOMPLISHES:

Budget Amendment Resolutions must be approved to receive bond proceeds. Establishes the accounts necessary to receive bond proceeds.

MANAGEMENT RECOMMENDATION:

Approval of the budget amendment resolutions and transfers.

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

RESOLUTION NOS. [11-04-22](#) and [11-04-23](#)

2. COMMUNITY DEVELOPMENT**A) ACTION REQUESTED/PURPOSE:**

Adopt a Resolution which consents to the actions taken by the Housing Finance Authority of Lee County, Florida pertaining to the issuance of Single Family Mortgage Revenue Bonds Series 2011, including its Single Family Housing Revenue Bonds (GSE Program-Multi-County) Series 2009. ([#20110267](#)-COMMUNITY DEVELOPMENT)

FUNDING SOURCE:

The Lee County Board of County Commissioners will have no financial or administrative costs.

WHAT ACTION ACCOMPLISHES:

Action will allow the Housing Finance Authority of Lee County, Florida to issue its Mortgage Revenue Bonds for single family financing home ownership in participation with various other counties in Florida and to provide affordable housing opportunities for low, moderate and middle income families in Lee County and other Florida Counties. Ratification of such action is required under Florida Statutes Chapter 159.

MANAGEMENT RECOMMENDATION:

Adopt the Resolution.

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

[RESOLUTION NO. 11-04-24](#)

3. CONSTRUCTION AND DESIGN

No requests received.

4. COUNTY COMMISSIONERS

No requests received.

5. COUNTY LANDS**A) ACTION REQUESTED/PURPOSE:**

[Accept donation of a 900 square-foot easement](#), STRAP No. 14-45-25-02-0000A.0090, from property owner Airport Woods Commerce Center Property Owners Association, Inc., located at 10051 Amberwood Road, Fort Myers, for the Airport Woods Sewer MSBU Project 7322. Also, authorize payment of costs to close in the approximate amount of \$40.00; and County Lands to execute and accept all documentation necessary to complete this transaction. ([#20110251](#)-COUNTY LANDS)

FUNDING SOURCE:

Fund: Airport Woods; Program: MSBU.

WHAT ACTION ACCOMPLISHES:

Acquires easement necessary for project.

MANAGEMENT RECOMMENDATION:

Approve.

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

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

No requests received.

11. PUBLIC WORKS ADMINISTRATION

No requests received.

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

Approve resolution authorizing the Chair to execute the attached [Local Agency Program Agreement](#) with the Florida Department of Transportation (FDOT) for Sunniland Boulevard and 25th Street Sidewalk. Also, approve budget amendment resolution in the amount of \$400,805.00, and amend the FY 2010/11-2014/2015 CIP accordingly. ([#20110258](#)-TRANSPORTATION)

FUNDING SOURCE:

100% Federal funds.

WHAT ACTION ACCOMPLISHES:

Executes Local Agency Program Agreement with FDOT to construct a sidewalk on the east side of Sunniland Boulevard from Park Road to Lee Boulevard and on the north side of 25th Street from Sunniland Boulevard to Unice Avenue.

MANAGEMENT RECOMMENDATION:

Approve.

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

RESOLUTION NOS. [11-04-25](#) AND [11-04-26](#)

13. UTILITIES**A) ACTION REQUESTED/PURPOSE:**

(1) Approve Project # EX110214, the utilization of Federal General Services Administration (GSA) Contract No. GS-30F-0016S, for the purchase of one (1) new Vermeer D24x40II Navigator horizontal drilling machine.

(2) Approve the expenditure of \$194,883.55 for the acquisition of this equipment from the local vendor, Vermeer Southeast Sales & Service, Inc. (Note: This purchase price, which is at the 2006 GSA Contract pricing level, represents a negotiated savings of \$24,353.00 over current Contract pricing, and includes several accessories at no cost.)

(3) Authorize the trade-in of Asset #45729, a 2002 Ditch Witch 2720 horizontal drilling machine. (Note: In the last year, Utilities experienced 162 days of downtime with this machine equating to a loss of productivity amounting to \$405,000.00 plus an additional rental cost of \$16,000.00 for a rental machine to finish work and maintain project schedules.) ([#20110262](#)-UTILITIES)

FUNDING SOURCE:

Fund – Lee County Utilities Operating; Program – Water Distribution / Furniture & Equipment.

WHAT ACTION ACCOMPLISHES:

This action will allow Utilities to systematically install new water lines to upgrade old

infrastructure, loop dead end lines to improve water quality, and improve fire flow and system interconnectivity.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Approve expenditures in the amount of \$161,736.00 to reimburse the Florida Governmental Utility Authority (FGUA) for the Waterway Estates Sewer Connection Facilities corridor study and design build criteria prepared by CDM and Wade Trim respectively. Lee County Utilities will bring back the construction and other construction related expenditures for Board approval upon completion of the hard bid process. Final bids are expected in June 2011. ([#20110269-UTILITIES](#))

FUNDING SOURCE:

LCU Capital Improvements; Program: Capital Projects; Project: Waterway Estates Wastewater Treatment Plant Flow Diversion.

WHAT ACTION ACCOMPLISHES:

Reimburses FGUA fees for the development of the corridor study and design build criteria for the Connection Facilities, and fulfills part of our obligations to reimburse the FGUA for the design and construction of the Connection Facilities.

MANAGEMENT RECOMMENDATION:

Approval.

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

C) ACTION REQUESTED/PURPOSE:

Approve, and authorize the Chair to execute, [Supplemental Task Authorization \(STA\) No. 1](#) to Contract No. 5536, with Stantec Consulting Services Inc. under CN-10-13 Miscellaneous Utility Engineering Design and/or Inspection Services, for the project known as Pinewoods WTP Wellfield Electrical Improvements in the not to exceed amount of \$149,305.00. ([#20110270-UTILITIES](#))

FUNDING SOURCE:

Fund: Utilities Capital Improvements; Program: Capital Projects; Project: Pinewoods Wellfield Electrical Improvements.

WHAT ACTION ACCOMPLISHES:

Authorizes use of consultant to perform engineering design, prepare construction drawings and Bid package technical specifications for the Pinewoods Water Treatment Plant (WTP) nano-filtration (NF) wellfield electrical upgrades.

MANAGEMENT RECOMMENDATION:

Approve.

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

D) ACTION REQUESTED/PURPOSE:

Approve [Change Order #2](#) under CN-09-07 Olga Water Treatment Plant Improvements Phase 3, with Tetra Tech Inc., (Contract #4890), in the not to exceed amount of \$65,715.00. The aggregate amount of Change Order #1 (\$48,890.00) and Change Order #2 (\$65,715.00) is \$114,605.00. Authorize Chair execute Change Order on behalf of the Board upon receipt. ([#20110271-UTILITIES](#))

FUNDING SOURCE:

Funds: LCU Capital Improvements; Program: Capital Projects; Project: Olga Water Treatment Plant Reservoir & Plant Improvements.

WHAT ACTION ACCOMPLISHES:

Provides funds to complete additional work covered under Change Order #2.

MANAGEMENT RECOMMENDATION:

Approve.

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

14. COUNTY ATTORNEY

A) ACTION REQUESTED/PURPOSE:

Approve settlement in several tax overbid cases consolidated in Excess Proceeds Services,

LLC v. Lee County, Case No. 09CA-771 as follows:

Claim No.	Claimants	Amount
2002-4024	Excess Proceeds	\$6,977.85
2003-1715	Excess Proceeds	\$14,314.61
2002-3933	Excess Proceeds	\$3,554.97
2003-380	Excess Proceeds	\$4,869.63
2003-5282	Russell Winer, Pers. Rep. Thomas	\$8,454.61
2003-4802	Russell Winer, Pers. Rep. Margos	\$14,644.72
2003-4192	Russell Winer, Pers. Rep. Noden	\$9,899.11

(#20110259-COUNTY ATTORNEY)

FUNDING SOURCE:

General Fund - Non-Departmental.

WHAT ACTION ACCOMPLISHES:

Settles cases of disputed application for overbid funds resulting from delinquent tax sales of real property.

MANAGEMENT RECOMMENDATION:

Approve.

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

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. (#20110278-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 Judah, 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 March 28 through ~~February~~ **April 1, 2011:**

March 29, 2011 (Regular)

(#20110279-MINUTES)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

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

MANAGEMENT RECOMMENDATION:

Approve.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT:

Consent Agenda Item 16(b), under **ACTION REQUESTED/PURPOSE**, should be revised to read as follows: Approve the Minutes of the following Meetings of the Board of County Commissioners held during the week of March 28 through April 1, 2011: March 29, 2011 (Regular).

Commissioner Judah moved approval, seconded by Commissioner Manning, called and carried with Commissioner Bigelow absent.

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

C) ACTION REQUESTED/PURPOSE:

Approve and sign the [FY10 Annual Financial Report](#) to the Florida Department of Banking and Finance (Department). ([#20110280](#)-FINANCE)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

To comply with Section 218.32, Florida Statutes, requiring that within 45 days after completion of the audit each local governmental entity shall submit a copy of its annual financial report, for the previous fiscal year, to the Department. Noncompliance with Section 218.32, Florida Statutes, will cause the Department to notify the Legislative Auditing Committee which may require the withholding of funds payable to the County by the Department of Revenue and the Department of Banking and Finance.

MANAGEMENT RECOMMENDATION:

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

17. PORT AUTHORITY AND OTHER GOVERNING BOARDS

No requests received.

ADMINISTRATIVE AGENDA

1. COUNTY ADMINISTRATION

A) ACTION REQUESTED/PURPOSE:

Authorize the demolition of building commonly referred to as Seafarers' Village located on Fort Myers Beach, and provide staff with direction on desired future use of site. ([#20110266](#)-COUNTY MANAGER)

FUNDING SOURCE:

General Fund.

WHAT ACTION ACCOMPLISHES:

Action allows for removal of a dilapidated structure on County-owned property and establishes the will of the Board for future use of site.

MANAGEMENT RECOMMENDATION:

Approve.

Assistant County Manager Pete Winton noted that there would be no formal presentation of this item, acknowledged discussion of this item at the Tourist Development Council (TDC) meeting last Friday, and stated Staff was present to respond to questions. Following comments by the individual Commissioners, Commissioner Manning acknowledged willingness to discuss the future of the property with the town and the Mayor, and moved approval, seconded by Commissioner Hall, called and carried with Commissioner Bigelow voting nay.

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:

Authorize staff to advertise a Public Hearing to be held on May 10, 2011 at 5:00 p.m. to consider amendments to County Ordinances 08-10 and 07-25 that will establish certain requirements and allowances for certain multi-family residential properties and private recovered material dealers related to the collection of recycling materials from such multi-family residential properties. ([#20110263](#)-SOLID WASTE)

FUNDING SOURCE:

Not applicable.

WHAT ACTION ACCOMPLISHES:

Establishes a date and time for a public hearing.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Approve the request to change the ownership and control of the Solid Waste and Recycling Collection Franchise Contractor, Choice Environmental Services of Lee, Inc. (privately owned) to Choice Environmental Services of Lee, Inc. owned by Swisher Hygiene, Inc., a publicly traded company, upon receipt of any documents (e.g. insurance, bond, guarantee, etc.) necessary, for service area number 4 (Lee Contract No. 5188). Franchise Area 4 is comprised of unincorporated areas of Lee County in Lehigh Acres, Alva, and East of I-75 (Palm Beach Boulevard). ([#20110264](#)-SOLID WASTE)

FUNDING SOURCE:

No funding is required.

WHAT ACTION ACCOMPLISHES:

Allows Choice Environmental of Lee, Inc. to sell its interest in the company to Swisher Hygiene, Inc. and allows Swisher Hygiene, Inc., as the parent company, to become the Guarantor with ultimate responsibility for the franchise collection contract for service area number 4.

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

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. Approve Resolution amending Resolution No. 05-11-81 adopted on November 29, 2005 designating certain managerial or policy-making positions within FRS Senior Management Service Class (SMSC) from Public Works Director to Assistant County Manager, Public Works; and inactivate positions of Smart Growth and Public Works Directors. Approve dual occupation of SMSC positions by the successor and the retiring incumbent for a period of time for training purposes. ([#20110252](#)-HUMAN RESOURCES)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Allows FRS to place the position of Assistant County Manager, Public Works, for the incumbent and predecessor, in the proper SMSC positions.

MANAGEMENT RECOMMENDATION:

Approve.

Interim County Attorney Andrea Fraser approved, as to legal form and sufficiency, the [Affidavits of Publication and Notice of Intent](#) for the 9:30 a.m. Agenda Item 1; and briefly reviewed the request. The Chairman called for public comment; however, no one came forward. Commissioner Manning moved approval, seconded by Commissioner Hall, called and carried.

[RESOLUTION NO. 11-04-27](#)

WALK-ON ITEM NO. 1 WAS HEARD DURING THE PRESENTATION PORTION OF THE MEETING.

WALK-ON ITEM NO. 1

4. COUNTY COMMISSIONERS

1. ACTION REQUESTED/PURPOSE:

Ceremonial presentation recognizing the "Taking it to the Streets" Campaign. ([#20110296](#)-COUNTY COMMISSIONERS)

Commissioner Mann read and presented a [Ceremonial Resolution](#) proclaiming Wednesday, April 13 through Saturday, April 23, 2011, as Lee County's official "Taking it to the Streets" campaign; and encouraging residents and visitors of Lee County and the City of Fort Myers to consider, utilize, and track alternatives to drive-alone commuting as participants in the "Taking it to the Streets" campaign. Department of Community Sustainability Program Manager Tessa LeSage, accompanied by City of Fort Myers Sustainability Coordinator Diana Giraldo, and Fort Myers resident Ann Pierce, accepted the Resolution; and thanked the Board.

WALK-ON ITEM NO. 2

1. COUNTY ADMINISTRATION

2. ACTION REQUESTED/PURPOSE:

Reject all proposals to date from the National Swimming Center Corporation (NSCC) for use of City of Palms Park. ([#20110301](#)-COUNTY MANAGER)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Closes out the proposal to redevelop City of Palms Park into a swimming center.

MANAGEMENT RECOMMENDATION:

Approve.

REASON FOR WALK ON:

Requested by the Board at its April 4, 2011 Management & Planning meeting.

Assistant County Manager Pete Winton noted that during the April 4, 2011 Management & Planning (M & P) meeting there was Board consensus to close out the letter of interest submitted last March 2010. Commissioner Judah noted the most recent [correspondence](#) received April 8, 2011 (copy on file in the Minutes Office) from the NSCC. Lengthy Board discussion ensued with Interim County Attorney Andrea Fraser, Economic Development Director Jim Moore responding to Board questions. Commissioner Judah moved to direct Staff to look into NSCC's revised proposal, seconded by Commissioner Bigelow. Commissioner Hall moved to reconsider the vote, which failed for lack of a second. The main motion was called and carried with Commissioner Hall voting nay. Following further Board discussion and clarification from Attorney Fraser, Chairman Mann directed the Economic Development Office to work with the NSCC. Commissioner Judah moved to bring back recommendations in 30 days, seconded by Commissioner Manning, called and carried.

COMMISSIONER ITEMS

PAIN MEDICATION CLINICS – Commissioner Judah requested a moratorium on the licensing of pain clinics, and to direct staff to skip the request for public hearing and bring the Ordinance directly to public hearing on May 10, 2011, as advised by Interim County Attorney Andrea Fraser.

COMMITTEE APPOINTMENTS

Chairman Mann requested a motion to reappoint Bernie W. Donoho to the **PARKS AND RECREATION ADVISORY COMMITTEE**. Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried.

Commissioner Judah moved to reappoint Jean Baer, Betty Davis Simpson, and Bob Wagner to the **PARKS AND RECREATION ADVISORY COMMITTEE**; and reappoint Larry Steinborn to the **PARTNERING FOR RESULTS COMMITTEE**, seconded by Commissioner Bigelow, called and carried.

Commissioner Hall moved to appoint Esta Rubenstein to the **PARTNERING FOR RESULTS COMMITTEE**, seconded by Commissioner Manning, called and carried.

COUNTY MANAGER ITEMS

Assistant County Manager Holly Schwartz informed that the Management & Planning (M & P) meeting scheduled for May 2nd would be moved to May 9th, 2011, with the M&P overflow moved to May 16, 2011. Commissioner Hall so moved, seconded by Commissioner Manning, called and carried.

Ms. Schwartz stated that the draft letter provided to the Board requests authorization for Staff to work with Senator Michael S. Bennett to include parts of Lee County as an Energy Economic Zone. Commissioner Manning so moved, seconded by Commissioner Judah, called and carried.

COUNTY ATTORNEY ITEMS

Interim County Attorney Andrea R. Fraser had no items to be discussed.

Public Presentation of Matters by Citizens:

The Chairman called for public comment and the following concerned citizens came forward:

Fort Myers resident [David Sutton](#) expressed concern over his personal business that was cited for code violations concerning a certificate of use.

Chairman Mann requested Deputy County Manager Bill Hammond work with Mr. Sutton to resolve this issue.

Alva resident [James D. English](#) distributed [handout](#) (copy on file in the Minutes Office) noting issues in the northeast Lee County with the Babcock Ranch Community surface water management permit issued by the South Florida Water Management District (SFWMD). He requested that the Board take immediate action to change the language in their water management regulations and complete the Lee County Surface Water Management Plan. He then requested that the County deny issuance for the requested permit for SR-31 canal.

Fort Myers Beach resident [Chris Schaab](#) expressed his view regarding traffic on Fort Myers Beach and noted that there was a need for “foot traffic control”.

Chairman Mann recommended Mr. Schaab meet with Town of Fort Myers Beach Manager Terry Stewart.

The Chairman adjourned the meeting at 11:51 a.m.

ATTEST:
CHARLIE GREEN, CLERK

Deputy Clerk

[Chairman, Lee County Commission](#)