

AUGUST 16, 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 E. Manning, Vice Chairman  
 A. Brian Bigelow  
 Ray Judah  
 Tammara Hall

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.

### **PRESENTATIONS**

The 2<sup>nd</sup> quarter 2011 Employee Length of Service Awards were presented by Human Resources Coordinator Stephanie Figueroa and Employee Relations representative Rosanna Music. See CP-1 agenda back-up for a list of employees recognized. ([#20110648-HUMAN RESOURCES](#))

### **ANNOUNCEMENTS**

Referring to the August 16, 2011 Agenda [Recap Sheet](#), the Chairman announced that:

Immediately following the Length of Service Awards, a presentation by Melissa Meeker, Executive Director of South Florida Water Management District (SFWMD), will be provided regarding South Florida and Lee County issues.

Chairman Mann introduced the newly-appointed Executive Director of the SFWMD and recognized the latest SFWMD Board appointee for this area Dan DeLisi. Ms. Meeker addressed the Board and indicated her focus on the commitment of the SFWMD to the future. She introduced the SFWMD Board members present: Dan Delisi, Phil Flood, Ricardo Valera, and Ernie Barnett, and narrated a [PowerPoint presentation](#) highlighting the budget process and plans for regional projects. Ms. Meeker responded to Board comments and questions. At the request of Chairman Mann, Ms. Meeker agreed to meet with the Board within a sixty day timeframe to more thoroughly discuss specific projects.

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

A1A - Clerk of Courts [Charlie Green](#) - County Attorney Michael Hunt was requested to follow up on Ordinance revisions suggested by Mr. Green

C12A - Lehigh Acres Economic Development Board member [Jere Carrick](#)

C8A - Collier County Audubon and Caloosahatchee Citizens Association representative [Pete Quasius](#)

A1A - Bonita Springs resident [Roy Hyman](#)

A1A - Alva resident [James D. English, Jr.](#)

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

Commissioner Hall - none  
 Commissioner Manning - none  
 Commissioner Mann - none  
 Commissioner Judah – 8A, 14A and 14B  
 Commissioner Bigelow – 3A

### **CONSENT AGENDA**

#### **1. COUNTY ADMINISTRATION**

No requests received.

**2. COMMUNITY DEVELOPMENT**

No requests received.

**3. CONSTRUCTION AND DESIGN****A) ACTION REQUESTED/PURPOSE:**

Accept the informal bids taken and award to the lowest responsive/responsible bidder Gatewood Glass (local contractor) for the project known as Constitutional Complex Window Repair, in the amount of \$99,970.00. Further authorize Chair to execute the Construction Contract upon receipt. ([#20110563](#)-CONSTRUCTION AND DESIGN)

**FUNDING SOURCE:**

Fund: General Fund; Program: Major Maintenance Project; Project – Constitutional Complex Window Repair/Replacement.

**WHAT ACTION ACCOMPLISHES:**

Approximately 26 windows will be replaced due to fogging, visibility and leaking problems.

**MANAGEMENT RECOMMENDATION:**

Approve.

**PULLED FOR DISCUSSION**

Commissioner Bigelow moved approval, seconded by Commissioner Judah. Commissioner Bigelow commended Assistant County Manager for Public Works Doug Meurer for the transparency of the bidding process reflected in the blue sheet. The motion was called and carried.

**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 the Solid Waste Division to receive less than 10 tons of out-of-county solid waste from the Everglades City community marine clean-up efforts.

([#20110641](#)-SOLID WASTE)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Allows the Division to receive a limited quantity of out-of-county waste.

**MANAGEMENT RECOMMENDATION:**

Approve.

**PULLED FOR DISCUSSION**

Commissioner Judah moved approval, seconded by Commissioner Hall. Commissioner Judah expressed his and the County's appreciation to Covanta Energy Lee, Inc., for their sponsorship of this beneficial clean-up event. The motion was called and carried.

**9. PARKS AND RECREATION**

No requests received.

**10. PUBLIC SAFETY**

**A) ACTION REQUESTED/PURPOSE:**

Approve the second EMS County Award Grant budget of \$45,210.00 and [Request for Grant Fund Distribution](#). The funds will be used to improve and/or enhance Lee County's existing EMS pre-hospital system. Also, approve budget resolution in the amount of \$45,210.00 and accept the grant monies when received from the Bureau of EMS and approve expenditures in a like amount. ([#20110619](#)-PUBLIC SAFETY)

**FUNDING SOURCE:**

N/A

EMS County Award Grant.

**WHAT ACTION ACCOMPLISHES:**

The action completes the application and agreement process allowing Lee County EMS to apply and accept the grant monies in the amount of \$45,210.00

**MANAGEMENT RECOMMENDATION:**

Approve.

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

[RESOLUTION NO. 11-08-27](#)**B) ACTION REQUESTED/PURPOSE:**

Approve the [First Amendment to the License Agreement](#) between Verizon Wireless Personal Communications LP (Licensee), and Lee County to increase the ground space to accommodate construction of additional equipment in conjunction with the Licensee's use of tower space located at 16101 Alico Road, Fort Myers Florida.

([#20110632](#)-PUBLIC SAFETY)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Amendment provides the right to construct facilities on an additional 415 square feet of ground space at Lee County's Alico Tower in exchange for an increase in the License fee of \$500.00 per month.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**11. PUBLIC WORKS ADMINISTRATION**

No requests received.

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

Award B-11-25 County-Wide Roadway Resurfacing Improvements - FY 11 Contract 3 to the lowest responsive, responsible bidder meeting all bid requirements, [C.W. Roberts Contracting, Inc.](#), (a local vendor), in the not-to- exceed amount of \$961,771.00, with a project duration of 180 calendar days. Also, authorize Chair to execute contract upon receipt. ([#20110623](#)-TRANSPORTATION)

**FUNDING SOURCE:**

Fund – Transportation Capital Improvement; Program – Major Maintenance; Project – Road Resurfacing / Rebuild.

**WHAT ACTION ACCOMPLISHES:**

Provides a Contractor for the resurfacing and/or rebuilding of Corkscrew Road, Estero Boulevard, Sentinela Boulevard, Sunniland Boulevard., Homestead Road, Bell Boulevard and Plantation Road.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

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

Approve the [recommendation of Lee County Finance](#) to adjust the Utilities security deposit

interest rate credited to customers from .22534% to .27838%, effective September 1, 2011. The security deposit interest rate is the simple interest rate utilized to calculate interest earnings on security deposits. The interest rate will be reviewed annually.

(#20110618-UTILITIES)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Allows Utilities to increase the interest rate currently being credited to customers with security deposits from .22534% to .27838% annually. The interest rate increase would allow a closer match to the average rate of interest earned on security deposits monies invested by the County. Lee County Finance reports the first six (6) months average State Board of Administrators (SBA) interest of .27838% closely replicates an 18-month rate earned on security deposit monies invested.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**B) ACTION REQUESTED/PURPOSE:**

Authorize Chair to execute the [Commercial/Industrial Demand Reduction Rider Agreement](#) between Lee County and the Florida Power & Light Company (FP&L) for the Three Oaks Wastewater Treatment Facility. (#20110556-UTILITIES)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Allows Lee County Utilities to have the lowest rates possible on our electrical consumption.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**C) ACTION REQUESTED/PURPOSE:**

Authorize the continued use of Quote IW090528 Welding and Metal Fabrication for Utilities, from the awarded vendor Titan Manufacturing, Inc., with an estimated annual expenditure of \$200,000.00. (#20110602-UTILITIES)

**FUNDING SOURCE:**

Fund-Lee County Utilities Operations; Programs-Water Treatment Plants, Wastewater Treatment Plants and Systems Maintenance; Projects-Equipment Maintenance and Equipment Repair Parts.

**WHAT ACTION ACCOMPLISHES:**

Allows Utilities to get direct support from this specialized vendor on an as needed basis, in a cost effective, efficient and timely manner.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

#### **14. COUNTY ATTORNEY**

**A) ACTION REQUESTED/PURPOSE:**

Direct an ordinance amending the Lee County Noise Ordinance No. 93-15, as amended, to Public Hearing in the Lee County Chambers on Tuesday, September 13, 2011 at 9:30 a.m., or as soon thereafter as it may be heard. (#20110625-COUNTY ATTORNEY)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Eliminates any potential violation of the regulatory preemption pertaining to firearms, ammunition and related components adopted by the Florida Legislature in Florida Statutes Chapter 790.

**MANAGEMENT RECOMMENDATION:**

Approve authorization to advertise for and conduct a Public Hearing on Tuesday, September 13, 2011 at 9:30 a.m.

PULLED FOR DISCUSSION

Assistant County Attorney Dawn Perry-Lehnert and County Attorney Michael Hunt responded questions by Commissioners Judah and Bigelow on the new legislation that invokes sanctions for any type of interference with Chapter 790. The Chairman pointed out that the item directs this matter to Public Hearing for public input and further discussion. Commissioner Hall moved approval, seconded by Commissioner Manning. The motion was called and carried with Commissioner Judah voting nay.

**B) ACTION REQUESTED/PURPOSE:**

Direct an ordinance amending the Lee County Parks and Recreation Ordinance No. 06-26, as amended, to Public Hearing in the Lee County Commission Chambers on Tuesday, September 13, 2011 at 9:30 a.m., or as soon thereafter as it may be heard.

(#20110624-COUNTY ATTORNEY)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Eliminates any potential violation of the regulatory preemption pertaining to firearms, ammunition and related components adopted by the Florida Legislature in Florida Statutes Chapter 790.

**MANAGEMENT RECOMMENDATION:**

Approve authorization to advertise for and conduct a Public Hearing on Tuesday, September 13, 2011 at 9:30 a.m.

PULLED FOR DISCUSSION

Commissioner Judah indicated his objection was the same as in C14A. Commissioner Manning moved approval, seconded by Commissioner Hall, called and carried with Commissioner Judah voting nay.

**15. HEARING EXAMINER**

No requests received.

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

Approve Sheriff's expenditure and [transfer](#) from reserves in the LET Fund #10500 for \$100,000.00 for prevention and education programs. (#20110630-SHERIFF)

**FUNDING SOURCE:**

Law Enforcement Trust Fund.

**WHAT ACTION ACCOMPLISHES:**

Allow funds to be expended in the current fiscal year.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**B) ACTION REQUESTED/PURPOSE:**

Approve expenditures in the amount of \$389,267.36 by the Lee County Sheriff's Office for FY 10/11 from revenues collected from various fees, services, etc. that were collected by the Sheriff's Office during the period of 4/16/11 through 7/31/11. Also, approve transfers within budget line items within the Sheriff's Office allocation. (#20110631-SHERIFF)

**FUNDING SOURCE:**

General Fund.

**WHAT ACTION ACCOMPLISHES:**

Board approval is needed to expend funds collected.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**C) ACTION REQUESTED/PURPOSE:**

Approve [disbursements](#). The check and wire registers may be viewed on the Clerk's Website at WWW.LEECLERK.ORG by accessing the BoCC Minutes and Documents link. (#20110644-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 Manning moved approval, seconded by Commissioner Hall, called and carried.

**D) ACTION REQUESTED/PURPOSE:**

Approve the Minutes for the following meetings of the Board of County Commissioners held during the week of August 1 through August 5, 2011:

June 27, 2011 (Special - at Port)

August 02, 2011 (Regular)

August 03, 2011 (Millage Rate).

(#20110645-MINUTES)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

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

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**E) ACTION REQUESTED/PURPOSE:**

File and record [proof of publication](#) of unclaimed cash bond refunds in the Minutes of the County Commissioners of Lee County. (#20110646-FINANCE)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Pursuant to Chapter 116.21, Florida Statute notifies criminal and civil cash bond depositors of unclaimed funds held by the Clerk of Courts.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**17. PORT AUTHORITY AND OTHER GOVERNING BOARDS**

No requests received.

**ADMINISTRATIVE AGENDA****1. COUNTY ADMINISTRATION****A) ACTION REQUESTED/PURPOSE:**

Authorize entering into a [Service Provider Agreement](#), in accordance with Florida Statute 287.057 where legal services are exempt from competitive-solicitation, for Water Resources Consulting Services, for Lee County Visitor & Convention Bureau, to Rose Sundstrom & Bentley LLP, in the amount of \$200,000.00 for the 2011-12 fiscal year with a contract period of one (1) year with a one (1) year renewal option. Further authorize the Chair to execute the Agreement upon receipt.

(#20110621-VISITOR AND CONVENTION BUREAU)

**FUNDING SOURCE:**

Fund: Tourist Dev. Tax Trust; Program: VCB Capital Planning.

**WHAT ACTION ACCOMPLISHES:**

Provides for a continuation of services with a proven consultant in the area of water resource management.

**MANAGEMENT RECOMMENDATION:**

Approve.

Visitor and Convention Bureau Director Tamara Pigott reviewed the request, and responded to Board questions. Discussion followed with input from County Attorney Michael Hunt and Deputy County Attorney Fraser. Commissioner Judah moved approval for discussion, seconded by Commissioner Hall. Further discussion ensued on the separate contract the County has with Rose Sundstrom & Bentley, the County Attorney's request for deferral, and the TDC as the funding source for the subject agreement. At the Chairman's request, Mr. Fumero addressed the question of potential conflicts of interest, stating there were no conflicts or appearances of conflicts of interest. Commissioner Hall commented on the funding mechanism and requested a revision to the motion, and the motion maker agreed that the County Attorney would review the legality of the funding source and that the review would be concluded by next week. Following additional Board discussion, the motion was called and carried with Commissioners Mann and 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**

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**

No requests received.

**13. UTILITIES**

**A) ACTION REQUESTED/PURPOSE:**

McGregor II Wastewater Assessment Penalty Waiver Request. Approve or deny customer request to waive 100% of the penalty charges in the amount of \$21,238.64. This action would bring the outstanding penalty balance current. The customer would continue to be responsible for principal and interest charges, and any future penalties that may result from delinquent payments. (#20110617-UTILITIES)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Reduction of customer wastewater assessment penalty from \$21,238.64 to \$-0-.

**MANAGEMENT RECOMMENDATION:**

Staff does NOT recommend approving this action. The property being assessed is zoned residential; 15290 Codie Street, Fort Myers. A 100% waiver of the penalty fees requires Board approval. Utilities has offered to reduce penalty fees by 50%, with payment in full for outstanding principal, interest, and 1/2 the penalty fees. The customer declined the offer.

Commissioner Manning moved approval to reduce the penalty fees by 50% or \$10,619.32 which, along with \$3,526.00 original principal and \$4,023.40 interest, totaled \$18,168.72, as recommended by staff. Utilities Director Pam Keyes provided a brief overview of the matter. Commissioner Judah seconded the motion. Following further clarification, the motion was called and carried.

**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.

**COMMISSIONER ITEMS**

ART DISPLAY - Commissioner Hall invited everyone to view images on display outside her office by one of SW Florida's finest wildlife and nature photographers Geoff Coe

CONDITION OF COUNTY ROADS - Commissioner Hall requested and received support for a Management & Planning meeting discussion on the deteriorated conditions of certain county roads with Public Safety and Department of Transportation officials in attendance.

FORT MYERS BEACH RE-NOURISHMENT - Commissioner Judah requested a status report from Assistant County Manager Doug Meurer on beach re-nourishment on Fort Myers Beach in order to meet the November deadline.

Chairman Mann left the Chambers at this time, and did not return for the remainder of the meeting. Vice Chairman Manning assumed the Chair for the balance of the meeting.

SOLAR WATER HEATER - Commissioner Judah requested a Management and Planning meeting update on this item from County Manager Karen Hawes.

LOST GROVE MINES UPDATE - Commissioner Judah requested an update on Lost Grove Mines in conjunction with Collier County.

PHOSPHATE AREAWIDE ENVIRONMENTAL IMPACT STATEMENT - Commissioner Judah requested an update from Natural Resources Director Roland Ottolini and Assistant County Attorney Susan Henderson at the next available Management and Planning meeting.

CONSENT AGENDA ITEM 13C - Commissioner Bigelow indicated regret for not pulling Consent Agenda Item 13 C for discussion to direct further negotiations on a lower priced contract, and suggested looking at additional proposals.

**COMMITTEE APPOINTMENTS**

Commissioner Bigelow moved to appoint Paula C. Tarrant-Rivers to the **BLACK AFFAIRS ADVISORY BOARD** seconded by Commissioner Hall, called and carried.  
[\(RESOLUTION NO. 11-08-28\)](#)

**COUNTY MANAGER ITEMS**

County Manager Karen B. Hawes had no items for discussion.

**COUNTY ATTORNEY ITEMS**

County Attorney Michael Hunt had no items for discussion. .

The Chairman adjourned the meeting at 11:45 a.m.

ATTEST:  
CHARLIE GREEN, CLERK

\_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
[Chairman, Lee County Commission](#)