

MARCH 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
- Ray Judah
- Tammara Hall
- A. Brian Bigelow

The Chairman called the meeting to order at 9:30 a.m. The Invocation was given by Pastor A. J. Neugebauer, Beautiful Savior Lutheran Church, followed by the Pledge of Allegiance to the Flag.

PRESENTATIONS

Commissioner Judah read and presented a Ceremonial Resolution proclaiming March 19, 2011 as Southwest Florida Reading Festival Day. Library Director Sheldon Kaye accepted the Resolution, and thanked the Board. (#20110186-Commissioner Judah)

Commissioner Manning read and presented a Ceremonial Resolution congratulating Library employee Maria Palacio for her achievements and wishing her the best as she travels to Spain to represent Lee County and share her expertise at this prestigious event. Ms. Palacio accepted the Resolution, and thanked the Board. (#20110187-Commissioner Manning)

ANNOUNCEMENTS

Referring to the Revised Agenda Recap Sheet dated March 15, 2011, the Chairman announced that:

Consent Agenda Item 13a should be deferred indefinitely. It was anticipated the final contract to design and construct the Waterways Estates to North Fort Myers Utilities interconnect would have been successfully negotiated at a lower price before the date of this meeting. However, the parties to this contract have not successfully agreed to the final contract and therefore final pricing is not established. This item will be delayed indefinitely until acceptable and final contract terms are reached. Commissioner Manning moved approval, seconded by Commissioner Hall, called and carried.

One Walk-on item will be heard at the appropriate time.

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

C9(a) – Audubon Society representative Pete Quasius

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

- Commissioner Mann – 1(b)
- Commissioner Manning - None
- Commissioner Judah – 7(a), 9(a)
- Commissioner Hall - None
- Commissioner Bigelow - None

CONSENT AGENDA

1. COUNTY ADMINISTRATION

A) ACTION REQUESTED/PURPOSE:

Approve, and authorize the Chair to execute, an Agreement between the Lee County Board of County Commissioners and the School Board of Lee County, for the Saturday Driver’s Education Program; and authorize release of \$47,003.37 from the funds collected through Lee County Ordinance #02-28 Dori Slosberg Driver Safety Education Act. .
(#20110175-BUDGET SERVICES)

FUNDING SOURCE:

Fund: Driver’s Education Trust; Program: Driver’s Ed Fee-Lee P; Project: School Board of Lee County for the Driver’s Education Program.

WHAT ACTION ACCOMPLISHES:

Provides approval for the release of funds collected for use of the Driver's Education Program with the School Board of Lee County.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Approve resolution supporting Project LC-11-02-01 as a qualified applicant for the State Qualified Target Industry Tax Refund Program (QTI) as recommended by the Lee County Industrial Development Authority (IDA) on February 18, 2011; and conditionally approve Project #LC-11-02-01 as a qualified applicant for a Lee County FIRST Incentive Program award of \$2,000,000.00, subject to final approval and execution of a grant agreement.

Project #LC-11-02-01 consists of a U.S. headquarters and nutraceutical manufacturing/distribution facility. ([#20110180](#)-ECONOMIC DEVELOPMENT)

FUNDING SOURCE:

No funding required at this time.

WHAT ACTION ACCOMPLISHES:

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

MANAGEMENT RECOMMENDATION:

Approve.

PULLED FOR DISCUSSION

At the request of Commissioner Mann, Economic Development Director Jim Moore provided further clarification of the item. Commissioner Judah moved the item, seconded by Commissioner Manning, called and carried.

[RESOLUTION NO. 11-03-20](#)**2. COMMUNITY DEVELOPMENT**

No requests received.

3. CONSTRUCTION AND DESIGN

No requests received.

4. COUNTY COMMISSIONERS

No requests received.

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

Approve a [Purchase Agreement](#) for the acquisition of Parcel 171-WPE (±16,640 square feet), a portion of STRAP No. 17-43-25-00-00001.023A, from property owners John M. and Jessica R. Raposo, in the amount of \$5,500.00, for the North Lee County Water Treatment Plant Wellfield Expansion Project 7602. Pursuant to the terms and conditions set forth in the Agreement, authorize payment of costs to close in the approximate amount of \$1,250.00, and the Division of County Lands to handle all documentation necessary to complete this transaction. ([#20110176](#)-COUNTY LANDS)

FUNDING SOURCE:

Fund: Water Conservation Surcharge; Program: Capital Project; Project: North Lee County Water Treatment Plant Wellfield Expansion 7602.

WHAT ACTION ACCOMPLISHES:

Acquisition of property necessary for the expansion of the North Lee County WTP Wellfield, without the necessity of an eminent domain action.

MANAGEMENT RECOMMENDATION:

Approve.

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

6. HUMAN SERVICES

No requests received.

7. INDEPENDENT

A) **ACTION REQUESTED/PURPOSE:**

Accept the following monetary donations: \$100.00 from Christian Science Society of Bonita Springs for general purposes relating to South County Regional Library, \$27.00 from Friends of Riverdale Library for two periodical subscriptions, \$1,553.00 from Friends of North Fort Myers Public Library for the purchase of eight chairs, \$14,739.00 from Friends of Lakes Regional Library for the purchase of shelving in the A/V room and additional window frosting in the Youth Services , and \$50.00 from Gina Cole/friends and neighbors of Caloosahatchee Park in memory of David Vanistendael for a total of \$16,469.00. Accordingly, adopt a budget amendment resolution in the amount of \$16,469.00. ([#20110183-LIBRARY](#))

FUNDING SOURCE:

Donations.

WHAT ACTION ACCOMPLISHES:

Accepts donations and authorizes expenditures pursuant to donors' wishes.

MANAGEMENT RECOMMENDATION:

Approve.

PULLED FOR DISCUSSION

After Commissioner Judah thanked the various donors for their generous donations, he moved the item, seconded by Commissioner Hall. Library Fiscal Officer Sue Lange further clarified the item. The motion was called and carried. [RESOLUTION NO. 11-03-21](#)

8. NATURAL RESOURCES/ SOLID WASTE

No requests received.

9. PARKS AND RECREATION

A) **ACTION REQUESTED/PURPOSE:**

Approve and execute the [revised Babcock Ranch Preserve Management Agreement](#). ([#20110158-PARKS AND RECREATION](#))

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Updates the Management Agreement to be more consistent with the Lee County BoCC and State approved Babcock Ranch Preserve Land Management Plan.

MANAGEMENT RECOMMENDATION:

Approve.

PULLED FOR DISCUSSION

At the request of Commissioner Judah, Parks and Recreation employee Kathy Olson provided clarification of the Management Plan, Management Agreement, and Tenant Farming and its termination dates. Following explanation by Kitson Babcock Management representative Steve Smith regarding Mosquito Control Plans, Commissioner Judah moved approval, seconded by Commissioner Hall, called and carried.

10. PUBLIC SAFETY

A) **ACTION REQUESTED/PURPOSE:**

Adopt a Resolution certifying that County Award Grant monies will be used to improve and/or enhance Lee County's existing EMS pre-hospital system. Also, request the Board to approve budget resolution in the amount of \$47,276.00; accept the grant monies when received from the Bureau of EMS; and approve expenditures in a like amount.

([#20110168-PUBLIC SAFETY](#))

FUNDING SOURCE:

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 \$47,276.00.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Judah moved approval, seconded by Commissioner Manning, called and carried.
RESOLUTION NOS. [11-03-22](#) AND [11-03-23](#)

B) ACTION REQUESTED/PURPOSE:

Approve, and authorize Chair to execute, [acceptance letter](#) and any [other documents](#) required to accept this award from the State of Florida Division of Emergency Management that provides \$75,000.00 in grant funds to sustain the Regional Domestic Security Task Force Planner for Region Six. Also, authorize the continuation of one grant funded part-time Senior Planner position. No County Match Required. Further, approve Budget Amendment Resolution in the amount of \$75,000.00; and approve the expenditures in the like amount. ([#20110162](#)-PUBLIC SAFETY)

FUNDING SOURCE:

Fund—General Fund; Grant Funded.

WHAT ACTION ACCOMPLISHES:

Provides financial support for Lee County to continue a position that supports federal and state homeland security initiatives.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Judah moved approval, seconded by Commissioner Manning, called and carried.
[RESOLUTION NO. 11-03-24](#)

11. PUBLIC WORKS ADMINISTRATION

No requests received.

12. TRANSPORTATION

A) ACTION REQUESTED/PURPOSE:

Award B-11-13 County-wide Resurfacing Roadway Improvements to the lowest responsive, responsible bidder meeting all bid requirements, [S.T. Wooten Corp.](#) (a local Contractor) in the not-to-exceed amount of \$956,517.25 with a total completion time of 180 calendar days. Also, authorize Chair to execute contract on behalf of the Board upon receipt. ([#20110164](#)-TRANSPORTATION)

FUNDING SOURCE:

Fund- Transportation Capital Improvement; Program – Major Maintenance; Project - Road Resurface Rebuild Program.

WHAT ACTION ACCOMPLISHES:

Provides a Contractor for the resurfacing and/or rebuilding of sixty-one streets located in St. James City, North Fort Myers, South Fort Myers, and San Carlos Park.

MANAGEMENT RECOMMENDATION:

Approve.

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

13. UTILITIES

A) ACTION REQUESTED/PURPOSE:

Budget Transfer (BS 20110137/18552, LS/SDG): Approve Phase II (construction related) expenditures, including amounts not to exceed an aggregate total of \$9,400,000.00 (includes the \$833,109.00 approved on 11-2-2010) to the Florida Governmental Utility Authority (FGUA) for construction services and other associated costs with the Waterway Estates Sewer Connection Facilities. Also, request Board approval of Budget Transfer in the amount of \$8,400,000.00 from Lee County Utilities Reserves to the Waterway Estates Wastewater Treatment Plant Flow Diversion Project, and amend the FY '10/11 CIP Budget accordingly. ([#20110137](#)-UTILITIES)

FUNDING SOURCE:

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

WHAT ACTION ACCOMPLISHES:

Provides funds to for Phase II expenditures for the construction Guaranteed Maximum Price (GMP) of the Connection Facilities and other associated fees for the WWE Sewer Connection Facilities, and fulfills the last obligation by the County to reimburse the FGUA

for design and construction of the interconnect facilities.

MANAGEMENT RECOMMENDATION:

Approve.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: Consent Agenda 13 (a) should be deferred indefinitely. It was anticipated the final contract to design and construct the Waterways Estates to North Fort Myers Utilities interconnect would have been successfully negotiated at a lower price before the date of this meeting. However, the parties to this contract have not successfully agreed to the final contract and therefore final pricing is not established. This item will be delayed indefinitely until acceptable and final contract terms are reached. Commissioner Manning moved approval, seconded by Commissioner Hall, called and carried.

B) ACTION REQUESTED/PURPOSE:

Approve, and authorize Chair to execute, [Change Order No. 4 to Contract #3797](#), to CH2M Hill, Inc., under CN-06-04 Green Meadows Water Treatment Plant Expansion, in the amount of \$252,833.00, to extend the current pilot testing for up to an additional 180 days. Also, approve [Budget Transfer](#) in the amount of \$252,833.00 from the Corkscrew/I-75 Interchange project to the Green Meadows Water Treatment Plant Expansion project; and amend the FY 10/11 CIP accordingly. ([#20110163](#)-UTILITIES)

FUNDING SOURCE:

Fund: Utilities Capital Improvement; Program: Capital Projects; Project: Green Meadows Water Treatment Plant Expansion.

WHAT ACTION ACCOMPLISHES:

Allows the Engineer to extend current pilot testing for up to an additional 180 days for raw water blending strategies to fully understand water chemistry interactions and treatment design optimization requirements.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Judah 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 the Minutes for the following meetings of the Board of County Commissioners held during the week of February 28 through March 4, 2011:

February 28, 2011 (Comp Plan - EAR Workshop) March 1, 2011 (Regular)
March 1, 2011 (Comp Plan - EAR Adoption Hearing).

([#20110188](#)-MINUTES)

FUNDING SOURCE:

Not Applicable.

WHAT ACTION ACCOMPLISHES:

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

MANAGEMENT RECOMMENDATION:

Approve.

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

B) 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. ([#20110189](#)-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 Judah 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

No requests received.

11. PUBLIC WORKS ADMINISTRATION

No requests received.

12. TRANSPORTATION

No requests received.

13. UTILITIES

No requests received.

14. COUNTY ATTORNEY

A) ACTION REQUESTED/PURPOSE:

Approve mediated settlement in Lee County v. Balarezo, Case No. 10CA-82, Parcel 140, Burnt Store Road Project. ([#20110167](#)-COUNTY ATTORNEY)

FUNDING SOURCE:

Fund: toll surplus, land; Program: Capital Improvement Project; Project: Burnt Store Road Widening.

WHAT ACTION ACCOMPLISHES:

Settles all claims for condemnation of parcel 140.

MANAGEMENT RECOMMENDATION:

Approve.

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

15. HEARING EXAMINER

No requests received.

16. CONSTITUTIONAL OFFICERS

No requests received.

17. PORT AUTHORITY AND OTHER GOVERNING BOARDS

No requests received.

WALK-ON ITEM NO. 1

14. COUNTY ATTORNEY

1. ACTION REQUESTED/PURPOSE:

Authorize the County Attorney’s Office to execute the [Certification](#) for retention of documents requested by the United States Department of Justice, Civil Rights, Housing and Civil Enforcement Section in regards to an investigation into Lee County’s zoning and land use practices pursuant to the Federal Fair Housing Act. Discuss the Agreement to Toll the Statute of Limitations between the United States Department of Justice and Lee County. ([#20110209](#)-COUNTY ATTORNEY)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

The Department of Justice has requested that within ten (10) days of March 7, 2011, [March 16, 2011] Lee County return the certification signed by the elected or appointed County official with responsibility for the production and retention of documents during the investigation.

MANAGEMENT RECOMMENDATION:

Approve authorization.

REASON FOR WALK ON:

Certification must be signed by the appointed County official and returned by March 16, 2011, to the Department of Justice.

Interim County Attorney Andrea Fraser briefly reviewed this request and asked the Board to authorize the County Attorney’s Office to sign the Certificate to allow participation in providing the documentation to proceed in the investigation. She further stated that the Board is not being asked to sign the agreement to toll the Statute of Limitations which the County Attorney’s Office calculates will expire on March 17, 2011; and requested authorization to draft a letter. Board discussion ensued with Commissioner Hall requesting information regarding this case and notification when the files are transmitted to the State. After brief comments, Commissioner Manning moved the item, seconded by Commissioner Judah, called and carried.

COMMISSIONER ITEMS

LETTER TO COLONEL PANTANO – Commissioner Judah indicated his reason for requesting a [letter](#) be (copy on file in the Minutes Office) sent to Colonel Pantano, and noted that the Colonel has requested an evaluation of the 2008 Lake Okeechobee Regulation Schedule (LORS08) as it pertains to the beneficial use zone.

Commissioner Judah moved approval to send the letter, seconded by Commissioner Manning, called and carried. There was consensus to provide copies of the letter to the Chairman and the individual Governing Board members.

SANIBEL GLASS ARTIST LUCAS CENTURY – Commissioner Hall recognized Sanibel Glass Artist Lucas Century for his extraordinary glass art work which was presented to Prince Albert of Monaco.

COMMITTEE APPOINTMENTS

Chairman Mann requested a motion to reappoint Michael J. Polito ([RESOLUTION NO. 11-03-25](#)) to the **AFFORDABLE HOUSING COMMITTEE**, reappoint Thomas Charles Funari to the **UNIVERSITY WINDOW OVERLAY SPECIAL IMPROVEMENT UNIT COMMITTEE**, and reappoint Irwin N. Kellen to the **HUMAN SERVICES COUNCIL**. Commissioner Judah moved approval, seconded by Commissioner Hall, called and carried.

Commissioner Manning moved to appoint Jean DeWalt to the **HUMAN SERVICES COUNCIL**, seconded by Commissioner Hall, called and carried.

Commissioner Judah moved to appoint Thomas Leonard to the **SAN CARLOS ISLAND STREET LIGHTING DISTRICT**, appoint Samuel Marshall to the **CRSA SPECIAL IMPROVEMENT UNIT**, reappoint Tom Myers to the **WATERWAYS COMMITTEE**, and reappoint Robert Morain, Lyle Bosacker, and Randall Spivey to the **ANCHORAGE WAY/INTRACOASTAL OPERATION AND MAINTENANCE MSBU**, seconded by Commissioner Hall, called and carried.

Commissioner Hall moved to appoint Dick Muller to the **PARTNERING FOR RESULTS COMMITTEE**, reappoint Suzy Valentine to the **PARTNERING FOR RESULTS COMMITTEE**, and reappoint Jim Gillespie and William Shreve to the **CAA/NDC COMMITTEE**, seconded by Commissioner Manning, called and carried.

COUNTY MANAGER ITEMS

In response to Commissioner Bigelow’s request for a briefing on the initial recommendations of the Finance and Taxation Committee, Assistant County Manager Pete Winton stated that these would be incorporated in the options. Commissioner Hall suggested they be incorporated in the budget updates at the Management & Planning meeting, County Manager Karen Hawes and Mr. Winton concurred.

COUNTY ATTORNEY ITEMS

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

The Chairman adjourned the meeting at 10:12 a.m.

ATTEST:
CHARLIE GREEN, CLERK

Deputy Clerk

[Chairman, Lee County Commission](#)