

AUGUST 9, 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, followed by the Pledge of Allegiance to the Flag.

ANNOUNCEMENTS

Referring to the Agenda Recap Sheet dated August 9, 2011, the Chairman announced that:

For Consent Agenda Item 12(b), the following language should be added to the **ACTION REQUESTED/PURPOSE:** Request that the Board approve waiving of the formal process (if needed) and authorize the use of the Direct Materials Purchase Order, which allows the County to purchase directly from suppliers of equipment and or materials as a cost/time saving measure. Commissioner Judah moved approval, seconded by Commissioner Manning, called and carried.

The following Four (4) Consent Agenda Items: C1(b), C5(a), C7(a), and C12(c), should be moved to the Administrative Agenda to allow for further discussion. Commissioner Manning moved approval, seconded by Commissioner Judah, called and carried.

One Carry-Over Item would be taken at the appropriate time.

The County Attorney would have an announcement on the schedule of the Executive Session.

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 persons came forward:

- 9:30 AM-PH 2 – Island Coast Transportation representative Christina Ibrahim
- 9:30 AM-PH 2 – Blue Bird Taxi representative Jamie Corbett
- 9:30 AM-PH 2 – MBA & Apple Transportation representative John Poelker
- 9:30 AM-PH 2 – Aaron Taxi representative Doug Wilcox
- 9:30 AM-PH 2 – Naples Shuttle representative Debby Ruck
- 9:30 AM-PH 2 – Maxi-Taxi of Florida Inc. representative Todd Mastro
- 9:30 AM-PH 2 – Amber Taxi representative Chris Specht
- 9:30 AM-PH 2 – Blue Bird Taxi representative Judy Griffin
- A14(a) – Responsible Growth Management Coalition & Sierra Club representative Carl Veaux
- A14(a) – Collier County Audubon of SW Florida representative Pete Quasius
- A14(a) – Greater Pine Island Civic Association representative Phil Buchanan

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

CONSENT AGENDA

1. COUNTY ADMINISTRATION

- A) **ACTION REQUESTED/PURPOSE:**
 Present to the Board for information and filing the Object Code #504015 Expenditure Detail Report for the third quarter of FY10-11 (April through June 2011) as required by Lee County Ordinance #90-18. (#20110588-COUNTY MANAGER)
- FUNDING SOURCE:**
 Combination of County Administration, Economic Development, Human Services, Libraries, Parks & Recreation (Extension Services), Public Resources, Public Safety, Sustainability & Transit.

WHAT ACTION ACCOMPLISHES:

Allows Board to monitor expenditures being made by County Departments and Divisions to this object code.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Authorize Administration to pursue refunding of the Transportation Facilities Bonds, Series 2001A for savings. (#20110614-COUNTY MANAGER)

FUNDING SOURCE:

Bond Issue or Bank Loan.

WHAT ACTION ACCOMPLISHES:

BoCC approval is requested prior to preparation of documents.

MANAGEMENT RECOMMENDATION:

Allows for the preparation of documents for the refunding of the Transportation Facilities Bonds, Series 2001A utilizing either a bond issue or bank loan.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: This item should be moved to the Administrative Agenda to allow for further discussion. Commissioner Manning moved approval, seconded by Commissioner Judah, called and carried.

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:**

A) Approve Purchase Agreement for acquisition of Parcel 512, STRAP No. 22-45-25-00-00002.1210, in the amount of \$250,900.00, from Marianthi Kazakos Trustee of the Michael Kazakos Trust dated 01/28/1999, for the Three Oaks Parkway North Extension Project No. 4053, pursuant to the Purchase Agreement; B) authorize payment of costs to close in the approximate amount of \$7,000.00; C) and the Division of County Lands to handle all documentation necessary to complete transaction. (#20110587-COUNTY LANDS)

FUNDING SOURCE:

Fund – Transportation Capital Improvement Fund; Program – Capital Project; Project – Three Oaks Extension North.

WHAT ACTION ACCOMPLISHES:

Acquires property voluntarily without having to acquire under Eminent Domain.

MANAGEMENT RECOMMENDATION:

Approve.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: This item should be moved to the Administrative Agenda to allow for further discussion. Commissioner Manning moved approval, seconded by Commissioner Judah, called and carried.

6. HUMAN SERVICES**A) ACTION REQUESTED/PURPOSE:**

1.) Approve and sign an agreement between Lee County Board of County Commissioners and the [Health Planning Council of Southwest Florida](#) to receive \$101,076.00 in Housing Opportunities for People with AIDS (HOPWA) funding. 2.) Approve a budget resolution to add \$101,076.00 of HOPWA. (#20110601-HUMAN SERVICES)

FUNDING SOURCE:

Health Planning Council of Southwest Florida (HOPWA funds).

WHAT ACTION ACCOMPLISHES:

Provides \$ 101,076.00 for case management, housing stabilization and assistance towards economic self sufficiency for income eligible HIV+ Lee County residents.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO. 11-08-14](#)**B) ACTION REQUESTED/PURPOSE:**

1.) Approve and sign a [contract agreement](#) between Lee County Board of County Commissioners and Florida's Department of Community Affairs for Lee County to receive \$156,585.00 in Community Services Grant (CSBG) funds. This grant requires a 2% cash match (\$3,132.00). 2.) Approve a budget resolution to add \$156,585.00 of Community Services Block Grant funds. ([#20110605](#)-HUMAN SERVICES)

FUNDING SOURCE:

Florida Department of Community Affairs (DCA).

WHAT ACTION ACCOMPLISHES:

Provides \$156,585.00 for case management, vocational training, supportive and emergency services to facilitate economic self-sufficiency for eligible Lee County households. Also provides for emergency prescription vouchers. To qualify the household must have income levels below 125% federal poverty level.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO. 11-08-15](#)**7. INDEPENDENT****A) ACTION REQUESTED/PURPOSE:**

Accept the recommendations of the Metropolitan Planning Organization's Job Access and Reverse Commute and New Freedom Selection Committee, awarding Federal Transit Administration Section 5316 Job Access Reverse Commute and Section 5317 New Freedom grant funding to various agencies, authorizing staff to enter into subrecipient agreements and manage contracts including terminating contracts as provided for in the agreements and reallocate funding as needed to expend the grant. Approve a Budget Amendment Resolution in the amount of \$128,000.00 for anticipated current year expenditures and receipts of \$88,000.00 for Good Wheels and \$40,000.00 for the Dr. Piper Center. ([#20110575](#)-TRANSIT)

FUNDING SOURCE:

No County match required, 100% federal funding. Requires a budget amendment resolution programming USC 5317 grant funds in the amount of \$128,000.00.

WHAT ACTION ACCOMPLISHES:

Allows staff to enter into and manage subrecipient agreements, program USC 5316 and USC 5317 grant funds and receive and disburse grant funds.

MANAGEMENT RECOMMENDATION:

Approve.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: This item should be moved to the Administrative Agenda to allow for further discussion. Commissioner Manning moved approval, seconded by Commissioner Judah, called and carried.

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](#) for Sunniland Boulevard and 25th Street Sidewalk. (#20110582-TRANSPORTATION)

FUNDING SOURCE:

100% Federal funds.

WHAT ACTION ACCOMPLISHES:

Executes a new 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 Manning, called and carried.

[RESOLUTION NO. 11-08-16](#)

B) **ACTION REQUESTED/PURPOSE:**

Award B-11-23 Plantation Extension Landscape & Irrigation Project from Idlewild Road to Colonial Boulevard to the lowest responsive, responsible bidder meeting all bid requirements, [Juniper Landscaping, Inc.](#) (a local vendor), in the not to exceed amount of \$163,877.57.

Authorize Chair to execute agreement on behalf of the Board.

Request that the Board approve waiving of the formal process (if needed) and authorize the use of the Direct Materials Purchase Order, which allows the County to purchase directly from suppliers of equipment and or materials as a cost/time saving measure.

(#20110570-TRANSPORTATION)

FUNDING SOURCE:

Fund – Capital Improvement Fund; Program – Capital Projects; Project – Plantation Extension.

WHAT ACTION ACCOMPLISHES:

Provides a vendor for the installation of plant material and underground irrigation system, including maintenance of traffic, soil, sod (repairs), pump station, electrical, directional boring and landscape and irrigation maintenance.

MANAGEMENT RECOMMENDATION:

Approve.

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

For Consent Agenda Item 12(b), the following language should be added to the **ACTION**

REQUESTED/PURPOSE: Request that the Board approve waiving of the formal process (if needed) and authorize the use of the Direct Materials Purchase Order, which allows the County to purchase directly from suppliers of equipment and or materials as a cost/time saving measure. Commissioner Judah moved approval, seconded by Commissioner Manning, called and carried.

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

C) **ACTION REQUESTED/PURPOSE:**

o Approve Supplemental Task Authorization (STA) No. 1 to project CN-10-08 Miscellaneous Professional Services, to Stanley Consultants, Inc. (a local firm), Contract No. 5659 for Beth Stacey & Business Way Intersection Improvements in the not-to-exceed amount of \$131,966.00, with a project completion time of 180 calendar days.

o Authorize Chair to execute STA on behalf of the Board. (#20110572-TRANSPORTATION)

FUNDING SOURCE:

Fund – Transportation Capital Improvement; Program – Major Maintenance; Project – Master Signal.

WHAT ACTION ACCOMPLISHES:

Provides a Consultant for project management, surveying, traffic data collection and analysis, roadway plans, drainage analysis and plans, utility coordination, signing & marking analysis and plans and post design services at the intersection of Beth Stacey Boulevard and Business Way in Lehigh Acres.

MANAGEMENT RECOMMENDATION:

Approve.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: This item should be moved to the Administrative Agenda to allow for further discussion. Commissioner Manning moved approval, seconded by Commissioner Judah, called and carried.

13. UTILITIES

No requests received.

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. ([#20110626-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.

17. PORT AUTHORITY AND OTHER GOVERNING BOARDS

No requests received.

ADMINISTRATIVE AGENDA

THE ADMINISTRATIVE AGENDA ITEMS WERE HEARD OUT OF AGENDA ORDER.

1. COUNTY ADMINISTRATION**B) ACTION REQUESTED/PURPOSE:**

Authorize Administration to pursue refunding of the Transportation Facilities Bonds, Series 2001A for savings. ([#20110614-COUNTY MANAGER](#))

FUNDING SOURCE:

Bond Issue or Bank Loan.

WHAT ACTION ACCOMPLISHES:

BoCC approval is requested prior to preparation of documents.

MANAGEMENT RECOMMENDATION:

Allows for the preparation of documents for the refunding of the Transportation Facilities Bonds, Series 2001A utilizing either a bond issue or bank loan.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: Consent Agenda Item 1(b) should be moved to the Administrative Agenda to allow for further discussion. Commissioner Manning moved approval, seconded by Commissioner Judah, called and carried.

Commissioner Judah moved approval, seconded by Commissioner Manning. Assistant County Manager Pete Winton requested authorization to look at securing a bank loan or refinancing the bond, which would be brought back to the Board. Following Commissioner Mann’s request for a schedule of the fees, and comments by Commissioner Judah, the motion was called and carried.

2. COMMUNITY DEVELOPMENT

No requests received.

3. CONSTRUCTION AND DESIGN

A) ACTION REQUESTED/PURPOSE:

Execute Resolution finding public purpose in the construction of replacement parking lot to facilitate design objectives of the Downtown Library campus. ([#20110574-CONSTRUCTION AND DESIGN](#))

FUNDING SOURCE:

Fund – Library Capital Improvement Fund: Program – Capital Project; Project - Fort Myers-Lee County Library.

WHAT ACTION ACCOMPLISHES:

Facilitates property exchange necessary to achieve the County’s design objectives for the Downtown Library campus.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Hall moved approval, seconded by Commissioner Manning. Commissioner Bigelow, as the liaison for this project, commented that there were issues on the design of the Library. The motion was called and carried.

[RESOLUTION NO. 11-08-17](#)

4. COUNTY COMMISSIONERS

No requests received.

5. COUNTY LANDS

A) ACTION REQUESTED/PURPOSE:

A) Approve Purchase Agreement for acquisition of Parcel 512, STRAP No. 22-45-25-00-00002.1210, in the amount of \$250,900.00, from [Marianthi Kazakos Trustee of the Michael Kazakos Trust](#) dated 01/28/1999, for the Three Oaks Parkway North Extension Project No. 4053, pursuant to the Purchase Agreement; B) authorize payment of costs to close in the approximate amount of \$7,000.00; C) and the Division of County Lands to handle all documentation necessary to complete transaction. ([#20110587-COUNTY LANDS](#))

FUNDING SOURCE:

Fund – Transportation Capital Improvement Fund; Program – Capital Project; Project – Three Oaks Extension North.

WHAT ACTION ACCOMPLISHES:

Acquires property voluntarily without having to acquire under Eminent Domain.

MANAGEMENT RECOMMENDATION:

Approve.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: Consent Agenda Item 5(a) should be moved to the Administrative Agenda to allow for further discussion. Commissioner Manning moved approval, seconded by Commissioner Judah, called and carried.

Commissioner Manning moved approval, seconded by Commissioner Judah. County Lands Director Karen Maguire provided a summary of the transaction and noted that the reason to move this item to the Administrative Agenda was a change to the size of the parcel. The motion was called and carried.

6. HUMAN SERVICES

No requests received.

7. INDEPENDENT**A) ACTION REQUESTED/PURPOSE:**

Accept the recommendations of the Metropolitan Planning Organization's Job Access and Reverse Commute and New Freedom Selection Committee, awarding Federal Transit Administration Section 5316 Job Access Reverse Commute and Section 5317 New Freedom grant funding to various agencies, authorizing staff to enter into subrecipient agreements and manage contracts including terminating contracts as provided for in the agreements and reallocate funding as needed to expend the grant. Approve a Budget Amendment Resolution in the amount of \$128,000.00 for anticipated current year expenditures and receipts of \$88,000.00 for Good Wheels and \$40,000.00 for the Dr. Piper Center. ([#20110575-TRANSIT](#))

FUNDING SOURCE:

No County match required, 100% federal funding. Requires a budget amendment resolution programming USC 5317 grant funds in the amount of \$128,000.00.

WHAT ACTION ACCOMPLISHES:

Allows staff to enter into and manage subrecipient agreements, program USC 5316 and USC 5317 grant funds and receive and disburse grant funds.

MANAGEMENT RECOMMENDATION:

Approve.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: Consent Agenda Item 7(a) should be moved to the Administrative Agenda to allow for further discussion. Commissioner Manning moved approval, seconded by Commissioner Judah, called and carried.

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

[RESOLUTION NO. 11-08-18](#)

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**C) ACTION REQUESTED/PURPOSE:**

o Approve Supplemental Task Authorization ([STA No. 1](#)) to project CN-10-08 Miscellaneous Professional Services, to Stanley Consultants, Inc. (a local firm), Contract No. 5659 for Beth Stacey & Business Way Intersection Improvements in the not-to-exceed amount of \$131,966.00, with a project completion time of 180 calendar days.

o Authorize Chair to execute STA on behalf of the Board. ([#20110572-TRANSPORTATION](#))

FUNDING SOURCE:

Fund – Transportation Capital Improvement; Program – Major Maintenance; Project – Master Signal.

WHAT ACTION ACCOMPLISHES:

Provides a Consultant for project management, surveying, traffic data collection and analysis, roadway plans, drainage analysis and plans, utility coordination, signing & marking analysis and plans and post design services at the intersection of Beth Stacey Boulevard and Business Way in Lehigh Acres.

MANAGEMENT RECOMMENDATION:

Approve.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: Consent Agenda Item 12(c) should be moved to the Administrative Agenda to allow for further discussion. Commissioner Manning moved approval, seconded by Commissioner Judah, called and carried.

Commissioner Manning moved approval, seconded by Commissioner Judah. Following explanation by Interim Department of Transportation Director Dave Loveland to Commissioner Bigelow’s inquiry on the selection process, the motion was called and carried, with Commissioner Bigelow voting nay.

13. UTILITIES

A) ACTION REQUESTED/PURPOSE:

(A) Approve Bid Waiver # W-110375 to waive the formal quotation procedure, and allow the Public Works Department/Utilities Division to purchase Flygt Pumps, Services and Accessories from ITT Water and Wastewater Florida, LLC the only authorized distributor in Florida.

(B) It is also requested that the term of this waiver be for one year with two consecutive yearly extensions. Estimated annual expenditures would be approximately \$240,000.00. Funding will come from the individual department’s budget and they will be responsible for monitoring their own expenditures. ([#20110594-UTILITIES](#))

FUNDING SOURCE:

Fund-Lee County Utilities Operations; Program-Wastewater Collection; Projects-Equipment Repair Parts, Equipment Maintenance.

WHAT ACTION ACCOMPLISHES:

Allows Utilities to purchase original pumps, parts and products and get support from the area distributor on an as needed basis, in a cost effective, efficient, and timely manner.

MANAGEMENT RECOMMENDATION:

Approve.

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

14. COUNTY ATTORNEY

A) ACTION REQUESTED/PURPOSE:

Ratify the appeal of the Florida Department of Environmental Protection's (FDEP) dismissal of the County's petition for an administrative hearing concerning the Notice of Denial of the Environmental Resource Permit to the City of Cape Coral (City) for the Ceitus barrier and boatlift replacement. Also, ratify the notice of intent to petition for enforcement of the May 18, 2008 Second Amended Consent Order under Florida Statutes 120.69.

Approve an additional \$50,000.00 for continued prosecution of Ceitus boatlift replacement.

Approve [budget transfer](#) of \$50,000.00 from Expert Witness Fees - Okeechobee Releases to Legal Services - Ceitus Boatlift in Non-Departmental Program. ([#20110606-COUNTY ATTORNEY](#))

FUNDING SOURCE:

Fund - General Fund; Program - Non-Departmental; Project - N/A.

WHAT ACTION ACCOMPLISHES:

Gives the County Attorney's Office authority to continue the appeal of FDEP's dismissal and address the noncompliance with the May 18, 2008 Second Amended Consent Order through a Florida Statutes 120.69 action.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Manning moved approval, seconded by Commissioner Judah. Brief discussion ensued, with County Attorney Michael Hunt, Deputy County Attorney Andrea Fraser, and Assistant County Attorney Jed Schneck responding to questions from the Board. The motion was called and carried.

B) ACTION REQUESTED/PURPOSE:

Approve mediated settlement in Lee County v. Arena, et al., Case No. 10CA-1592, parcels 160, 161, 162, Burnt Store Road Project. ([#20110610-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 parcels 160, 161, 162 including attorney fees and expert costs.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Manning moved approval, seconded by Commissioner Judah. Interim Department of Transportation Director Dave Loveland provided a summary and updated the Board on the Burnt Store Road Project. After a brief discussion, Mr. Loveland agreed to provide an update to Commissioners Mann and Bigelow and the City of Cape Coral on the percentage of right-of-way after the meeting, the motion was 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.

9:30 A.M. AGENDA ITEM – Public Hearing

1. ACTION REQUESTED/PURPOSE:

Request Board to conduct a Public Hearing and approve a Resolution to establish the Solid Waste Collection and Disposal Program Special Assessments, rates, and other solid waste charges for tax year 2011 (FY 11-12); approve the proposed Resolution setting the annual special assessments and fees for the 2011 tax year, and direct the special assessments to be placed onto the Lee County tax bill for collection by the Lee County Tax Collector per Section 197.3632, Florida Statutes, for FY 12 (the 2011 tax year) and each year thereafter by the terms of the Resolution.

(#20110544-SOLID WASTE)

FUNDING SOURCE:

No funds required.

WHAT ACTION ACCOMPLISHES:

Lee County Ordinances Nos. 11-03 and 95-20, as amended, require that the annual Solid Waste Collection and Disposal Special Assessments, rates and fees be adopted before August 15th of each year. To meet this requirement, the Board establishes the rates, assessments, and fees, and directs the special assessments to be placed onto the Lee county tax bill for 2011. This action complies with the requirements of Lee County Ordinance Nos. 11-03 and 95-20, as amended and establishes the annual special assessments, rates and fees by Resolution for the Mandatory Solid Waste Collection and Disposal Program for FY 11-12.

MANAGEMENT RECOMMENDATION:

Approve.

Assistant County Attorney Scott Covert approved, as to legal form and sufficiency, the [Affidavit of Publication](#) for this item, and briefly described the request. Commissioner Judah moved approval, seconded by Commissioner Manning. Solid Waste Director Lindsey Sampson noted reductions over the last three years for the different utilities have resulted in the Board's decision to retire the 2001 Bond issue, and the additional receipt of increased recycling revenues. Discussion ensued with Mr. Sampson, Assistant County Manager Pete Winton, and Public Works Director Doug Meurer responding to questions. The Chair called for public input; however, no one came forward. The motion was called and carried.

[RESOLUTION NO. 11-08-19](#)

2. ACTION REQUESTED/PURPOSE:

Conduct a Public Hearing and consider the adoption of an ordinance repealing and replacing Lee County Ordinance No. 00-01 Taxicab and Livery Regulatory Ordinance. (#20110555-PUBLIC RESOURCES)

FUNDING SOURCE:

N/A.

WHAT ACTION ACCOMPLISHES:

Repeals and Replaces the Lee County Taxicab & Livery Ordinance 00-01 in order to establish certain regulations affecting the health, safety and welfare of the public.

MANAGEMENT RECOMMENDATION:

Approve.

Assistant County Attorney Scott Covert approved, as to legal form and sufficiency, the [Affidavit of Publication](#) for this item, and briefly described the request. Commissioner Manning suggested postponement of voting on the ordinance today to allow industry input, and to reset a public hearing date. Responding to Commissioner Manning's suggestion, Assistant County Manager Pete Winton noted that the County could accept reciprocity with Charlotte and Collier Counties, and provided clarification. Commissioner Manning moved to reset the public hearing to a date certain, possibly in September. At the request of Mr. Winton, Public Resources Administrative Assistant Rosanna Herrera reviewed the renewal process. Following Board discussion, Commissioner Manning removed his motion to allow Commissioner Hall to move forward with the alternative motion. After brief comments, Commissioner Hall moved to adopt the ordinance with the recommended changes, and for Staff to continue to work with the industry to revise the ordinance, seconded by Commissioner Manning. At the request of the Chair, Attorney Covert reviewed the changes in the ordinance and responded to questions. The Chairman called for additional public input and the following person came forward:

Apple Transportation representative Joanna Poelker

The motion was called and carried. The Ordinance adopted by the Board and filed was [LEE COUNTY ORDINANCE NO. 11-07, ENTITLED:](#)

AN ORDINANCE REGULATING TAXICAB AND LIVERY COMPANIES IN LEE COUNTY, FLORIDA REPEALING AND REPLACING LEE COUNTY ORDINANCE NO. 00-01; PROVIDING FOR TITLE, PURPOSE AND AUTHORITY; PROVIDING DEFINITIONS; PROHIBITING UNLICENSED VEHICLES FOR HIRE; PROVIDING FOR CERTIFICATE APPLICATION AND DRIVER IDENTIFICATION CARD, RENEWAL, AND REVOCATION; REQUIRING DISPLAY OF STICKER; PROVIDING FOR TRANSFERABILITY OF CERTIFICATE; PROVIDING FOR MINIMUM INSURANCE REQUIREMENTS AND PENALTIES; PROVIDING FOR AREAS OF ENFORCEMENT AND MEANS OF ENFORCEMENT; PROVIDING FOR SEVERABILITY, CONFLICTS OF LAW, INCLUSION IN CODE, CODIFICATION AND SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

Commissioner Hall volunteered to work on the reciprocity, and the Chairman designated her to represent the Board.

3. ACTION REQUESTED/PURPOSE:

Conduct the second public hearing. Adopt an ordinance amending Lee County Land Development Code (LDC) Chapters 1, 2, 10, 12, 14, 22, 30, 33, and 34.

(#20110611-COUNTY ATTORNEY)

FUNDING SOURCE:

N/A.

WHAT ACTION ACCOMPLISHES:

Satisfies the Board policy to hold two public hearings to amend the LDC when a change to permitted or prohibited uses are proposed. If adopted, the ordinance will establish Countywide standards.

MANAGEMENT RECOMMENDATION:

Staff recommends adoption of the Ordinance without the inclusion of the proposed Citizen amendment to §34-1351 (Automotive repair and service).

Assistant County Attorney Michael Jacob approved, as to legal form and sufficiency, the [Affidavit of Publication](#) for this item, and briefly described the request. Attorney Jacob noted the items in the distributed [Errata Sheet](#) (on file in the Minutes Office) were the last minute items in the draft Ordinance, and noted that Staff recommendation was to approve the LDC amendment striking out the proposed Citizen amendment to §34-1351 and adding the Errata sheet changes. The Chairman called for public input; and the following concerned citizens came forward:

[Tim Hawk](#) representing Logic and Reason

[Attorney Charles Basinait](#) representing Premier Airport LLC & SOM Fort Myers LLC

[Marion Briggs](#) of North Fort Myers

[Jim Kinsey](#) of Kinsey Associates

[Tim Keene](#) of Kraus Foods

[Ron Kraus](#) of Fort Myers

At the request of the Chair, Community Development Director Mary Gibbs noted the position on the parking was a compromise requiring 16 spaces and recommending 13 spaces. The Chairman expressed support of Staff working with Attorney Basinait on the extension request, and asked Staff to work with him. Discussion ensued regarding

comments and concerns during public comment. Community Development Chief Building Officer Bob Stewart and Ms. Gibbs clarified Commissioner Hall's inquiry on the building and the parking issues. Commissioner Manning left the meeting briefly during Commissioner Hall's comments. Commissioner Judah moved approval of the Staff recommendation to include items in the Errata Sheet, and to exclude the reduction of the parking issue from 16 to 13, seconded by Commissioner Bigelow. During Board comments, Ms. Gibbs suggested that the minor repair issue could be addressed by adding language to an upcoming community plan. Chairman Mann clarified that the motion was to accept staff recommendation for everything except the reduction from 16 to 13 in the parking spaces issue. Following further comments by Commissioner Hall, the motion was called and carried, with Commissioner Hall dissenting. The Ordinance adopted by the Board and filed was [LEE COUNTY ORDINANCE NO. 11-08, ENTITLED:](#)

AN ORDINANCE AMENDING LEE COUNTY LAND DEVELOPMENT CODE (LDC) CHAPTERS 1, 2, 10, 12, 14, 22, 30, 33, AND 34.

AMENDING LDC CHAPTER 1, SPECIFICALLY: AMENDMENTS TO LAND DEVELOPMENT CODE (§1-13).

AMENDING LDC CHAPTER 2, SPECIFICALLY: CREDITS (§2-275) AND PENALTIES AND LIENS (§2-427).

AMENDING LDC CHAPTER 10, SPECIFICALLY: DEFINITIONS AND RULES OF CONSTRUCTION (§10-1), DEVIATIONS AND VARIANCES (§10-104), DURATION OF DEVELOPMENT ORDER (§10-115), AMENDMENTS GENERALLY (§10-118), EXTENSIONS (§10-123), ADDITIONAL REQUIRED SUBMITTALS (§10-154), TYPES OF DEVELOPMENT ENTITLED TO LIMITED REVIEW (§10-174), REQUIRED (§10-211), BIKEWAYS AND PEDESTRIAN WAYS (§10-256), REFUSE AND SOLID WASTE DISPOSAL FACILITIES (§10-261), FUNCTIONAL CLASSIFICATION OF COUNTY ROADS (§10-284), CONNECTION SEPARATION (§10-285), STREET DESIGN AND CONSTRUCTION STANDARDS (§10-296), INLET SPACING (§10-326), DRAINAGE EASEMENTS (§10-328), EXCAVATIONS (§10-329), SUBMITTAL REQUIREMENTS (§10-414), AND PLANT MATERIAL STANDARDS (§10-420), AND PIPING MATERIALS FOR USE IN RIGHT OF WAY (§10-716).

AMENDING LDC CHAPTER 12, SPECIFICALLY: APPROVAL PROCESS FOR MINE EXCAVATION PLANNED DEVELOPMENT (§12-108) AND WATER QUALITY AND QUANTITY ISSUES (§12-117).

AMENDING LDC CHAPTER 14, SPECIFICALLY: PLANNING COMMUNITY REGULATIONS (§14-1).

AMENDING LDC CHAPTER 22, SPECIFICALLY: APEALS (§22-42).

AMENDING LDC CHAPTER 30, SPECIFICALLY: PLANNING COMMUNITY REGULATIONS (§30-56) AND PERMANENT SIGNS IN COMMERCIAL AND INDUSTRIAL AREAS (§30-153);

AMENDING LDC CHAPTER 33, SPECIFICALLY: PROHIBITED SIGNS (§33-383); COMMUNITY REVIEW (§33-1004), WALL-MOUNTED IDENTIFICATION SIGNS (§33-1042), MAXIMUM HEIGHT OF WIRELESS COMMUNICATION FACILITIES (§33-1084) AND BUSINESS LICENSE REQUIRED (§33-1360).

AMENDING LDC CHAPTER 34, SPECIFICALLY: DEFINITIONS (§34-2), COMPLIANCE WITH SPECIFIC PLANNING COMMUNITY REQUIREMENTS (§34-6), CONDUCT OF MEETINGS; REPORTS AND RECORDS (§34-144), FUNCTIONS AND AUTHORITY (§34-145), GENERAL SUBMITTAL REQUIREMENTS FOR APPLICATIONS REQUIRING PUBLIC HEARING (§34-202), SUBMITTAL REQUIREMENTS FOR ADMINISTRATIVE ACTION APPLICATIONS (§34-204) PRELIMINARY REVIEW AND NOTICE CERTIFICATION (§34-233), NOTICES (§34-236), PREHEARING STIPULATION (§34-376), AMENDMENTS TO APPROVED MASTER CONCEPT PLAN (§34-380), DURATION OF RIGHTS CONFERRED BY ADOPTED MASTER CONCEPT PLAN (§34-381), USE ACTIVITY GROUPS (§34-622), REQUESTS FOR ZONING VERIFICATION (§34-626), USE REGULATIONS TABLE FOR AGRICULTURAL DISTRICTS (§34-653), USE REGULATIONS TABLE FOR TWO-FAMILY

RESIDENTIAL DISTRICTS (§34-694), USE REGULATIONS TABLE FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS (§34-714), USE REGULATIONS TABLE FOR MOBILE HOME DISTRICTS (§34-765), USE REGULATIONS TABLE FOR RECREATIONAL VEHICLE DISTRICTS (§34-791), USE REGULATION TABLE FOR COMMUNITY FACILITIES DISTRICTS (§34-813), USE REGULATION TABLE FOR CONVENTIONAL COMMERCIAL DISTRICTS (§34-843), USE REGULATION TABLES FOR MARINE-ORIENTED DISTRICTS (§34-873), USE REGULATION TABLE FOR INDUSTRIAL DISTRICTS (§34-903), USE REGULATION TABLES FOR PLANNED DEVELOPMENT DISTRICTS (§34-934), PRIVATE RECREATIONAL FACILITIES PLANNED DEVELOPMENTS (§34-941), USE REGULATIONS ENVIRONMENTALLY CRITICAL DISTRICT (§34-983), APPLICABILITY (§34-1001), PURPOSE, AND INTENT (§34-1002), DEFINITIONS (§34-1003), REPEALING FLIGHT OBSTRUCTION SURFACES (§34-1004), CREATING AIRPORT PROTECTION ZONES (§34-1005), AIRPORT NOISE ZONES (§34-1006), CREATING AIRPORT RUNWAY CLEAR ZONES, AIRPORT SCHOOL PROTECTION ZONES (§34-1007), AIRPORT RESIDENTIAL PROTECTION ZONES (§34-1008), AND AIRPORT OBSTRUCTION NOTIFICATION ZONE (§34-1009), LCPA TALL STRUCTURES PERMIT (§34-1010), AIRPORT COMPATIBILITY DISTRICT VARIANCES (§34-1011), LAND USE RESTRICTIONS AND OBSTRUCTION IDENTIFICATION (§34-1012), AND NONCONFORMING USES (§34-1013), ACCESSORY APARTMENTS (§34-1177), ADDITIONAL DWELLING UNIT ON LOT IN AGRICULTURAL DISTRICTS (§34-1180), SALE OR SERVICE FOR ON-PREMISES CONSUMPTION (§34-1264), CONVENIENCE FOOD AND BEVERAGE STORES, AUTOMOTIVE SERVICE STATIONS, FAST FOOD RESTAURANTS, AND CAR WASHES (§34-1353), VARIANCES OR DEVIATIONS PREVIOUSLY PROVIDED UNDER §34-1353 (§34-1354), DEFINITIONS (§34-1442), APPLICABILITY AND EXEMPTIONS (§34-1443), PERMISSIBLE WIRELESS FACILITY LOCATIONS (§34-1444), DEVELOPMENT REVIEW PROCESS (§34-1445), APPLICATION SUBMITTAL REQUIREMENTS (§34-1446), DEVELOPMENT REGULATIONS (§34-1447), DISCONTINUED USE (§34-1451), APPLICABILITY OF DIVISION (§34-1711), REPEALING DEFINITIONS (§34-1712), REPEALING ROADSIDE STANDS (§34-1714), STANDARDS FOR COMMUNITY GARDENS (§34-1716), CONSTRUCTION OF FENCES (§34-1742), LOCATION AND HEIGHT OF FENCES AND WALLS OTHER THAN RESIDENTIAL PROJECT FENCES (§34-1744), ENTRANCE GATES AND GATEHOUSES (§34-1748), SEC. 34-2013, ACCESS (§34-2013), PARKING LOT SURFACE (§34-2017), REQUIRED SPACES (§34-2020), MEASUREMENT; PERMITTED ENCROACHMENTS (§34-2191), NONCOMMERCIAL SCHOOLS (§34-2381), TEMPORARY TELEPHONE DISTRIBUTION EQUIPMENT (§34-3047), REPEALING ANCILLARY TEMPORARY USES IN PARKING LOTS (§34-3048), GENERALLY (§34-3041), REPEALING TEMPORARY PARKING LOTS (§34-3049), AND WATER ORIENTED RENTAL ESTABLISHMENTS; OUTDOORS (§34-3151), NON WATER-DEPENDENT USES (§34-3152), LOT OF RECORD DEFINED; GENERAL DEVELOPMENT STANDARDS (§34-3272).

AMENDING APPENDIX C-AIRPORT NOISE ZONES, APPENDIX J – DESCRIPTION OF HARLEM HEIGHTS, CHARLESTON PARK, AND THE FORT MYERS/LEE COUNTY ENTERPRISE ZONE AND APPENDIX L – COMMUNITY PARK IMPACT FEE BENEFIT DISTRICT DESCRIPTIONS.

PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

CARRY OVER ITEM NO. 1

1. ACTION REQUESTED/PURPOSE:

Approve the Resolutions of Necessity for the acquisition and condemnation of Parcels 7A & 7B, 8A & 8B, 10, 11A & 11B, 13 & 13 TCE and 14, required for the San Carlos Force Main Replacement – Main Street to Hurricane Pass, Project No. 7320. This item was deferred on August 2, 2011 by the Board to allow further review. ([#20110538](#)-COUNTY ATTORNEY)

FUNDING SOURCE:

No funds are required

WHAT ACTION ACCOMPLISHES:

Allows the County to proceed with condemnation, if required, of the necessary parcels for

construction of the San Carlos Force Main Replacement (Main Street to Hurricane Pass), Project No. 7320.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NOS. 11-08-20 THROUGH 11-08-25](#)

COMMISSIONER ITEMS

MEN & WOMEN IN UNIFORM – Commissioner Hall expressed heartfelt thanks and recognized the soldiers in active duty and those who had passed-on.

QUARTERLY UPDATE – Noting the memorandum from Deputy County Attorney Andrea Fraser, Commissioner Hall requested at a minimum a quarterly update on litigation costs. Attorney Fraser clarified that only the monthly report would cease.

ROAD PROJECTS IN PROCESS UPDATE – Commissioners Hall and Bigelow requested an update on the Department of Transportation projects, to be provided at the next Management and Planning.

REQUEST FOR BOARD APPROVAL FOR STAFF TO TAKE A LOOK AT THE TWO ITEMS:

COST SHARING PARTNERSHIP WITH CITY OF CAPE CORAL – Commissioner Manning noted that the City has requested (copy on file in the Minutes Office) a cost sharing partnership between the County and the City Department of Transportation

KISMET-LITTLETON REALIGNMENT – Commissioner Manning requested Board direction (copy on file in the Minutes Office) to pursue cost sharing agreement with the Metropolitan Planning Organization (MPO) to incorporate the realignment project in the 2035 Financially Feasible Plan. This plan was left out when it was adopted.

SUNSET PROVISION – Commissioner Manning noted that prior to his return to the Board a sunset provision was adopted in 2008, and stated that the 23 mobile home parks with on-site recycling expired in October, 2010. He suggested that the sunset provision be extended from October 1, 2010 to October 1, 2013; and requested the County Attorney's Office bring this item back at the next Management and Planning meeting.

COMMITTEE APPOINTMENTS

Commissioner Judah moved to reappoint Robert Olinger, Winston Church, and Al O'Donnell, to the **ROADWAY LANDSCAPE ADVISORY COMMITTEE**, appoint Reverend Dick Tafel to the **HUMAN SERVICES COUNCIL**, reappoint Herbert Buboltz to the **SHELTERING PINES MOBILE HOME VILLAGE IMPROVEMENT UNIT**, reappoint Bob Masten to the **IONA GARDENS LIGHTING UNIT**, seconded by Commissioner Manning, called and carried.

Commissioner Hall moved to appoint Chester Young to the **WATERWAYS ADVISORY COMMITTEE**, seconded by Commissioner Manning, called and carried.

COUNTY MANAGER ITEMS

Deputy County Manager Bill Hammond had no items to be discussed.

COUNTY ATTORNEY ITEMS

County Attorney Michael Hunt announced that the Executive Session related to the Tex Development, Inc. is scheduled for Wednesday, August 31, 2011 at 9:00 a.m. in the Chambers, and convening to the East Room. Commissioner Judah so moved, seconded by Commissioner Hall, called and carried.

The Chairman recessed the meeting until 5:00 p.m. The Chairman called the meeting back to order at 5:00 p.m. with all Commissioners present.

5:00 P.M. AGENDA ITEM – Public Hearing

1. ACTION REQUESTED/PURPOSE:

Lee County Utilities (LCU) Rates (BS 20110562/20016, CBA/SDG): Authorize Chair, on behalf of the Board, to conduct a public hearing on August 9, 2011 at 5:00 p.m. to consider adoption of revised Lee County Utilities user rates and some miscellaneous service charges by County Resolution for four (4) fiscal years: FY 2012; FY 2013; FY 2014; and FY 2015. There is no

adjustment for water and/or wastewater connection fees. ([#20110562-UTILITIES](#))

FUNDING SOURCE:

No funds required.

WHAT ACTION ACCOMPLISHES:

Establishes revised utility retail rates for Lee County Utilities.

MANAGEMENT RECOMMENDATION:

Approval.

Assistant County Attorney Scott Covert approved, as to legal form and sufficiency, the Affidavit of Publication for this item, and briefly described the request. Public Works Director Doug Meurer explained the proposed four year programmed rate increase and responded to questions. The Chairman called for public input; however, no one came forward. Commissioner Manning moved to approve Staff recommendation, seconded by Commissioner Judah. Following brief Board discussion, the motion was called and carried, with Commissioners Mann and Bigelow voting nay.

[RESOLUTION NO. 11-08-26](#)

Public Presentation of Matters by Citizens

Fort Myers Beach resident [Sam Lurie](#) expressed concern regarding the \$9 million Fort Myers Beach Library expansion.

At the request of Commissioner Judah, County Attorney Michael Hunt and Deputy County Attorney Andrea Fraser clarified that there was limited over-site as this is an independent taxing district.

Cape Coral resident [Carl Veaux](#) opined that the Alico Road Extension was un-warranted and would cause urban sprawl should go to the Density Reduction/Groundwater Resource (DR/GR). The Sunrise Highway was another issue.

St. James City resident [Charles Messina](#) noted issues with the interpretation of the Lee County Development Code adopted in 1993 be reviewed.

As the District Commissioner, Commissioner Manning addressed Mr. Messina's issue and referenced a memorandum of February 9, 2011 from the County Attorney's Office. He noted that what Mr. Messina would like to do would set a precedent that would be negative toward Lee County.

The Chairman adjourned the meeting at 5:34p.m.

ATTEST:

CHARLIE GREEN, CLERK

Deputy Clerk

[Chairman, Lee County Commission](#)