

FEBRUARY 1, 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 9:32 a.m. The Invocation was given by Pastor Jim Rosemergy, Unity of Fort Myers, followed by the Pledge of Allegiance.

ANNOUNCEMENTS

Referring to the Agenda [Recap Sheet](#) dated February 1, 2011, the Chairman announced that there were no revisions or additions to the Agenda; however, there would be matters presented for discussion under County Manager and County Attorney Items.

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

C10A – Bonita Springs resident [Roy Hyman](#)

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

Commissioner Hall - none
 Commissioner Manning - none
 Commissioner Judah - none
 Commissioner Bigelow - none
 Commissioner Mann – C10A

CONSENT AGENDA

1. COUNTY ADMINISTRATION

No requests received.

2. COMMUNITY DEVELOPMENT

A) ACTION REQUESTED/PURPOSE:

Amend County External Fee Manual to clarify building permit fees approved by the Board of County Commissioners in 2009; add new fees for Temporary Certificates of Occupancy (CO) and Code Enforcement lien releases; and increase three miscellaneous Contractor Licensing fees. ([#20110035](#)-COMMUNITY DEVELOPMENT)

FUNDING SOURCE:

NA

WHAT ACTION ACCOMPLISHES:

Clarifies existing building permit fees for specific categories and subcategories to align with common industry language, adds two new fees for Temporary CO's and Code Enforcement lien releases, and adjusts three miscellaneous Contractor Licensing fees.

MANAGEMENT RECOMMENDATION:

Approve.

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

3. CONSTRUCTION AND DESIGN

No requests received.

4. COUNTY COMMISSIONERS

No requests received.

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

Authorize the Division of County Lands to make a binding offer to property owner James Corbitt, in the amount of \$2,500.00, for Parcel 116-AE (\pm 957 square feet), easement in part of STRAP No. 05-46-25-00-00002.011A, for the Alico Road/Briarcliff Stormwater Drainage Canal Project No. 4030. Pursuant to the [Easement Purchase Agreement](#), authorize payment of estimated costs to close of \$750.00, and the Division of County Lands to handle all documentation necessary to complete transaction.

([#20110047](#)-COUNTY LANDS)

FUNDING SOURCE:

Fund: Transportation Capital Improvement; Program: Capital Projects; Project: Alico Road.

WHAT ACTION ACCOMPLISHES:

Authorizes binding offer to property owner.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Approve [Purchase Agreement](#) for acquisition of Parcel 400 (\pm 9,375 square feet), STRAP No.: 07-44-23-C2-04192.0320, from property owner Howard Baum, in the amount of \$8,500.00, for the Burnt Store Road Widening Project No. 4088. Pursuant to the Purchase Agreement, authorize payment of estimated costs to close of \$750.00, and the Division of County Lands to handle all documentation necessary to complete transaction.

([#20110050](#)-COUNTY LANDS)

FUNDING SOURCE:

Fund: Transportation Capital Improvement Surplus Capital Cape Coral; Program: Capital Projects; Project: Burnt Store 4 Lane/78-Van Buren.

WHAT ACTION ACCOMPLISHES:

Voluntary acquisition of property for the Burnt Store Road widening project.

MANAGEMENT RECOMMENDATION:

Approve.

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

C) ACTION REQUESTED/PURPOSE:

Authorize the Division of County Lands to make a binding offer to property owner North Brook Holdings, L.L.C., in the amount of \$5,000.00, for Parcel 123-WPE (\pm 24,566 square feet), STRAP No. 16-43-25-00-00003.0080, for the North Lee County Water Treatment Plant Wellfield Expansion Project No. 7602. Pursuant to the Purchase Agreement, authorize payment of estimated costs to close of \$1,000.00, and the Division of County Lands to handle all documentation necessary to complete transaction.

([#20110051](#)-COUNTY LANDS)

FUNDING SOURCE:

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

WHAT ACTION ACCOMPLISHES:

Authorizes binding offer to property owner.

MANAGEMENT RECOMMENDATION:

Approve.

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

D) ACTION REQUESTED/PURPOSE:

Authorize the Division of County Lands to make a binding offer to property owner North Brook Holdings, L.L.C., in the amount of \$45,000.00 for Parcels 122 (\pm 40,000 square feet) and 122-WPE (\pm 39,678 square feet), STRAP No.: 21-43-25-00-00002.0000, for the North Lee County Water Treatment Plant Wellfield Expansion Project No. 7602. Pursuant to the Purchase Agreement, authorize payment of estimated costs to close of \$1,500.00, and the Division of County Lands to handle all documentation necessary to complete the transaction. ([#20110052](#)-COUNTY LANDS)

FUNDING SOURCE:

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

WHAT ACTION ACCOMPLISHES:

Authorizes binding offer to property owner.

MANAGEMENT RECOMMENDATION:

Approve.

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

E) ACTION REQUESTED/PURPOSE:

Authorize the Division of County Lands to make a binding offer to property owner Fretter Alumni, LLC., in the amount of \$3,600.00 for Parcel 1 ($\pm 2,100$ square feet), STRAP No.: 31-45-24-00-00015.1050, for the Force Main Replacement (Pine Ridge Road Lift Station 254 to Kelly Road) Project No. 7313. Pursuant to the Purchase Agreement, authorize the payment of estimated costs to close of \$750.00, and the Division of County Lands to handle all documentation necessary to complete the transaction.

(#20110053-COUNTY LANDS)

FUNDING SOURCE:

Fund: Utilities Capital Improvements Program: Capital Projects Project: Force Main Replacement – Pine Ridge, Orange River, Ortiz.

WHAT ACTION ACCOMPLISHES:

Authorizes binding offer to property owner.

MANAGEMENT RECOMMENDATION:

Approve.

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

F) ACTION REQUESTED/PURPOSE:

Authorize the Division of County Lands to make a binding offer to property owner [Kevin Charles Himschoot](#), in the amount of \$3,700.00 for Parcel 2 ($\pm 3,020$ square feet), STRAP No. 32-45-24-00-00026.0000, for the Force Main Replacement (Pine Ridge Road Lift Station 254 to Kelly Road) Project No. 7313. Pursuant to the Purchase Agreement, authorize the payment of estimated costs to close of \$750.00, and the Division of County Lands to handle all documentation necessary to complete transaction.

(#20110054-COUNTY LANDS)

FUNDING SOURCE:

Fund: Utilities Capital Improvements Program: Capital Projects Project: Force Main Replacement – Pine Ridge, Orange River, Ortiz.

WHAT ACTION ACCOMPLISHES:

Authorized binding offer to property owner.

MANAGEMENT RECOMMENDATION:

Approve.

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

G) ACTION REQUESTED/PURPOSE:

Authorize the Division of County Lands to make a binding offer to property owner [Scratch and Dent Shop, Inc.](#), in the amount of \$3,900.00 for Parcel 3 ($\pm 3,307$ square feet), STRAP No. 32-45-24-05-00000.0020, for the Force Main Replacement (Pine Ridge Road Lift Station 254 to Kelly Road) Project No. 7313. Pursuant to the Purchase Agreement, authorize the payment of estimated costs to close of \$750.00, and the Division of County Lands to handle all documentation necessary to complete transaction.

(#20110055-COUNTY LANDS)

FUNDING SOURCE:

Fund: Utilities Capital Improvements Program: Capital Projects Project: Force Main Replacement – Pine Ridge, Orange River, Ortiz.

WHAT ACTION ACCOMPLISHES:

Authorizes binding offer to property owner.

MANAGEMENT RECOMMENDATION:

Approve.

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

H) ACTION REQUESTED/PURPOSE:

Authorize the Division of County Lands to make a binding offer to property owner [Danny M. Kelly](#), in the amount of \$4,400.00, for Parcel 5 (\pm 3,300 square feet), STRAP No. 32-45-24-00-00026.004A, for the Force Main Replacement (Pine Ridge Road Lift Station 254 to Kelly Road) Project No. 7313. Pursuant to the Purchase Agreement, authorize the payment of estimated costs to close of \$850.00, and the Division of County Lands to handle all documentation necessary to complete transaction.

(#20110056-COUNTY LANDS)

FUNDING SOURCE:

Fund: Utilities Capital Improvements Program: Capital Projects Project: Force Main Replacement – Pine Ridge, Orange River, Ortiz.

WHAT ACTION ACCOMPLISHES:

Authorizes binding offer to property owner.

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:**

Approve [Budget Transfer](#) from Future Capital Outlay Reserves to Other Contracted Services in the Riverdale Shores Special Improvement Unit #10232.

(#20110011-PUBLIC RESOURCES)

FUNDING SOURCE:

Funds available in the Riverdale Shores Special Improvement Unit Reserve Account.

WHAT ACTION ACCOMPLISHES:

Allows Riverdale Shores Special Improvement Unit to access funds set aside specifically for the purpose of drainage system maintenance.

MANAGEMENT RECOMMENDATION:

Approve.

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

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

Approve [transfer](#) from Solid Waste Operating Fund Reserves to Solid Waste Operating Fund Non-Recurring Expense to issue repayment of approximately \$865,256.00 to the current registered property owners within the Upper Captiva MSTU for reimbursement of Hurricane Charley debris disposal costs (less administrative costs).

(#20110031-SOLID WASTE)

FUNDING SOURCE:

Fund - Solid Waste Operating Fund; Program - Hurricane Projects; Project - Hurricane Charley.

WHAT ACTION ACCOMPLISHES:

Reimburse current registered property owners for expenses related to Hurricane Charley debris removal activities. Administrative Code 3-6 requires County Manager approval for transfers from reserves.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Approve [Change Order No. 10 with HDR](#), Inc. for an amount not to exceed \$497,500.00 and a term of one (1) year for required engineering services related to the waste-to-energy facility (WTE) including maintenance punch-lists, equipment inventory, quarterly and annual reports all in accordance with the Covanta Amended and Restated Service Agreement and other System requirements. Also, authorize an extension of two additional

one-year periods for this work, as long as each subsequent annual price does not exceed the price shown above. This Change Order constitutes a term extension of the existing Professional Service Agreement. ([#20110043-SOLID WASTE](#))

WHAT ACTION ACCOMPLISHES:

Provides engineering services related to the expanded WTE facility operations/maintenance monitoring and other system reporting.

MANAGEMENT RECOMMENDATION:

Approve.

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

9. PARKS AND RECREATION

No requests received.

10. PUBLIC SAFETY

A) **ACTION REQUESTED/PURPOSE:**

Approve removal of account balances of non-collectible contractual write-offs and or bad debt accounts from both Emergency Medical Services primary ambulance billing vendor Advanced Data Processing Inc. (ADPI) and the bad debt collections vendor Professional Adjustment Corporation (PAC). The amounts to be written off for ADPI: Medicare, Medicaid, HMO insurance companies is \$4,310,087.88 (08-09 / 27,826 accounts) and uncollectible debt of \$1,759,417.80 (07-08 / 7,950 accounts). The write-off of uncollectible debt is the result of bankruptcy; court probates; prisoner transports; account adjustments from legal and or insurance company requests; and financial hardship approval from Lee County Human Services Department. PAC account balances of uncollectible debt are \$1,983,285.11 (6,651 accounts). The total account balances to be removed from the EMS receivable balance is \$8,052,790.79.

([#20110006-PUBLIC SAFETY](#))

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

The action reduces the accounts receivable balance to reflect actual anticipated revenue to be collected by the billing and bad debt collection vendors contracted by Lee County.

MANAGEMENT RECOMMENDATION:

Approve.

PULLED FOR DISCUSSION

Public Safety EMS Manager David Kainrad and Assistant County Manager Pete Winton addressed questions posed during public comment and by the Board. Commissioner Judah moved approval, seconded by Commissioner Manning, called and carried.

11. PUBLIC WORKS ADMINISTRATION

No requests received.

12. TRANSPORTATION

No requests received.

13. UTILITIES

A) **ACTION REQUESTED/PURPOSE:**

Developer Contributed Asset: Approve construction of a water distribution and gravity collection system serving University Plaza to provide potable water service, fire protection, and sanitary sewer service to this proposed commercial subdivision. This asset project is located at the southwest corner of Alico Road and Ben Hill Griffin Parkway.

([#20110032-UTILITIES](#))

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Provides adequate utility infrastructure to support development of the subject property, and complies with the Lee County Utilities Design Manual.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Authorize Chair to sign [Amendment No. 2 to State Revolving Fund \(SRF\) Loan Agreement WW392330](#), to increase the amount of the loan funding for construction costs for the Gateway Wastewater Treatment Plant (WWTP) Expansion and the Airport Sewer Transmission line projects. Also, approve Budget Amendment Resolution in the amount of \$10,000,000.00 received from FDEP. ([#20110045](#)-UTILITIES)

FUNDING SOURCE:

State Revolving Fund loan in the Utilities Capital Improvement Fund.

WHAT ACTION ACCOMPLISHES:

Action secures an additional \$10,000,000 at an interest rate of 2.22% to fund the construction of the Gateway WWTP Expansion, and the Airport Sewer Transmission line projects.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO. 11-02-01](#)

14. COUNTY ATTORNEY**A) ACTION REQUESTED/PURPOSE:**

Adopt Resolution amending the Lee County Administrative Code Section 13-6 pertaining to Annual Lee Plan Amendment Procedures. ([#20110057](#)-COUNTY ATTORNEY)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Conforms Code to current statutory requirements and County practices.

MANAGEMENT RECOMMENDATION:

Updates procedures to reflect governing regulations and current practices.

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

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

15. HEARING EXAMINER

No requests received.

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

Approve Sheriff's expenditure in the Law Enforcement Trust (LET) – Crime Prevention Fines Statute 775.083 Fund #10505 of \$50,000.00 to support the Civil Citation program (prevent juvenile delinquency, reduce juvenile crime and reduce disproportionate minority contact with the criminal justice system). Also, approve [interfund transfer of \\$66,000.00](#) to the General Fund to continue support of the Human Services administered Neighborhood Building Program. Additionally, approve Sheriff's expenditure and [transfer from reserves in the LET Fund #10500 for \\$193,050.00](#) for prevention and education programs. ([#20110026](#)-SHERIFF)

FUNDING SOURCE:

Law Enforcement Trust Fund.

WHAT ACTION ACCOMPLISHES:

Allow funds to be expended in the current fiscal year.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Approve expenditures in the amount of \$207,355.24 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 10/1/10 through 1/6/11. Also, approve transfers within budget line items within the Sheriff's Office allocation. ([#20110027-SHERIFF](#))

FUNDING SOURCE:

General Fund.

WHAT ACTION ACCOMPLISHES:

Board approval is needed to expend funds collected.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Judah moved approval, seconded by Commissioner Manning, 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.

([#20110068-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.

D) **ACTION REQUESTED/PURPOSE:**

Approve Minutes for the following meetings of the Board of County Commissioners held during the week of January 17, 2011 through January 21, 2011:

January 18, 2011 (Regular)

([#20110069-MINUTES](#))

FUNDING SOURCE:

N/A

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.

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**A) ACTION REQUESTED/PURPOSE:**

Waive competitive bidding on purchase of Road Impact Fee Credits for the construction of the new Emergency Operations Facility on Ortiz Avenue, and authorize staff to negotiate directly with the seller of the road impact fee credits offering the highest discount. Also, authorize Chair to execute the [Impact Fee Credit Agreement](#), and County staff to process documentation necessary to complete the transaction. Finally, authorize payment of road impact fees to the City of Fort Myers. ([#20110063](#)-COUNTY LANDS)

FUNDING SOURCE:

Fund – Capital Improvement Fund; Program – Capital Project; Project – Emergency Operations Center.

WHAT ACTION ACCOMPLISHES:

Allows County to save money on the payment of road impact fees on the construction of the new Emergency Operations Facility.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Judah moved approval, seconded by Commissioner Manning, 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

No requests received.

13. UTILITIES

No requests received.

14. COUNTY ATTORNEY**A) ACTION REQUESTED/PURPOSE:**

Approve the Resolution of Necessity for the acquisition and condemnation of Parcel 171-WPE required for the North Lee County Water Treatment Plant Wellfield Expansion, Project No. 7602. ([#20110048](#)-COUNTY ATTORNEY)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Allows the County to proceed with condemnation, if required, so Parcel 171-WPE can be acquired for the expansion of the North Lee County Water Treatment Plant Wellfield.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Judah moved approval, seconded by Commissioner Manning. Following response by County Lands Director Karen Maguire and Interim County Attorney Andrea Fraser to questions on efforts to work with property owners prior to condemnation, the motion was called and carried.

[RESOLUTION NO. 11-02-03](#)

15. HEARING EXAMINER

No requests received.

16. CONSTITUTIONAL OFFICERS

No requests received.

17. PORT AUTHORITY AND OTHER GOVERNING BOARDS

No requests received.

COMMISSIONER ITEMS

LOCAL BUSINESS ANNIVERSARY - Commissioner Hall congratulated Bob and Karen Long of Marine Concepts, a Cape Coral business, on their anniversary and ability to re-invent their business during this economic climate. Commissioner Judah added his congratulations and underscored that, due to the County's public/private partnerships and incentive funding, this local company continued in business and was able to retain its employees.

LEGISLATIVE MATTER - Commissioner Judah pointed out that the Legislature may be looking at pre-empting new fertilizer Ordinances and moved to request staff to draft a [position statement](#) in opposition to such a proposal. The motion was seconded by Commissioner Hall, called and carried. Assistant County Manager Holly Schwartz agreed to draft the position statement for signature.

SUSTAINABILITY COMMITTEE - Commissioner Bigelow responded to an inquiry by Chairman Mann on his appointment plans in light of a recent resignation request by a current member of the Sustainability Committee.

COMMITTEE APPOINTMENTS

Commissioner Hall moved to appoint Nicholas Spaech to the **LAND DEVELOPMENT CODE ADVISORY COMMITTEE**, seconded by Commissioner Manning, called and carried.

Chairman Mann requested a motion to appoint Karen D. Swanbeck to the **COASTAL ADVISORY COMMITTEE** and Blanca Contreras to the **AFFORDABLE HOUSING ADVISORY COMMITTEE** ([Resolution No. 11-02-04](#)). Commissioner Judah moved approval, seconded by Commissioner Hall, called and carried.

COUNTY MANAGER ITEMS

Human Resources Manager Christine Brady updated the Board on the protocol for a Special Meeting scheduled for Saturday, February 5, 2011, entailing a panel interview of seven (7) County Attorney applicants. Interim County Attorney Andrea Fraser opined that the Board may engage in public discussion following the interview process, but a final selection should not be made prior to the Regular Board meeting of Tuesday, February 8, 2011, at which time the Board could finalize a selection for County Attorney.

COUNTY ATTORNEY ITEMS

Chief Assistant County Attorney Donna Marie Collins reminded the Board of a scheduled closing at 3:00 p.m. today on Conservation 2020 property, north of State Route 82.

The Chairman adjourned the meeting at 10:07 a.m.

ATTEST:
CHARLIE GREEN, CLERK

Deputy Clerk

[Chairman, Lee County Commission](#)