

MAY 31, 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 Rev. Joseph Gabriel, of Full Gospel Assembly, followed by the Pledge of Allegiance.

ANNOUNCEMENTS

Referring to the Agenda Recap Sheet dated May 31, 2011, the Chairman announced that one Carry-Over Item would be heard at the appropriate time in the agenda.

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

The Chairman called for public input, and the following individuals came forward:

A9A – Betty Simpson (handout);
 CO1 - Lee County Public Defender Kathy Smith

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

Commissioner Hall - None
 Commissioner Manning - None
 Commissioner Judah - None
 Commissioner Bigelow – 3B, 12A, 14A and 14D
 Commissioner Mann - None

CONSENT AGENDA

1. COUNTY ADMINISTRATION

No requests received.

2. COMMUNITY DEVELOPMENT

No requests received.

3. CONSTRUCTION AND DESIGN

A) **ACTION REQUESTED/PURPOSE:**

Approve, and authorize Chair to execute, Supplemental Task Authorization (STA) No. 2 to Contract No. 3950, under CN-07-12 Miscellaneous Architectural Services, to Sheeley Architects Inc. (a local firm), in the amount of \$35,500.00, for the project known as D.O.T. Operations/Traffic Building. This STA will bring the total project amount to \$122,000.00. Also, provide for an extension of the annual contract with Sheeley Architects to allow for the completion of this project only. (#20110386-CONSTRUCTION AND DESIGN)

FUNDING SOURCE:

Fund: Capital Improvement Fund; Program: Capital Improvement Program; Project: Traffic Building Replacement Project.

WHAT ACTION ACCOMPLISHES:

Provides a Consultant to perform continued architectural and engineering design services for Phase II of the DOT Operations/Traffic Building.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Approve, and authorize Chair to execute, an [Addendum to the Construction Manager Agreement, Contract #3877](#), for RFQ-06-01 Administration East Renovations, Phase 6a, with Stultz, Inc. (a local contractor), to include the Guaranteed Maximum Price (GMP) in the amount of \$1,610,548.34 (which includes a CM Fee of 6.52% or \$91,627.34) for the 3rd floor renovations, utilizing 100% local subcontractors, with a project completion time of 5-1/2 months. ([#20110406](#)-CONSTRUCTION AND DESIGN)

FUNDING SOURCE:

Fund-General Fund; Program-Major Maintenance Project; Project-Administration East Renovations.

WHAT ACTION ACCOMPLISHES:

Compensates Contractor for the necessary renovations to the Administration East Building, 3rd floor, by providing fire proofing and replacing the air handlers.

MANAGEMENT RECOMMENDATION:

Approve.

PULLED FOR DISCUSSION

Commissioner Bigelow suggested putting this phase of the project out for competitive bid while indicating his continued opposition to the project overall. Commissioner Manning moved approval of the Addendum, seconded by Commissioner Judah. Assistant County Manager Doug Meurer provided an update on the project. Following comments by Commissioner Hall on the County's bid process and resultant cost savings, the motion was called and carried with Commissioner Bigelow voting nay.

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 SWF Beach Outlet, Inc., in the amount of \$11,600.00 for Parcel 1 (4,196± square feet) for the Force Main Replacement (San Carlos Boulevard to Fort Myers Beach Waste Water Treatment Plant) Project No. 7313. If offer is accepted, authorize Chair to execute the Purchase Agreement. Pursuant to the Purchase Agreement, authorize payment of costs to close in the approximate amount of \$750.00, and the Division of County Lands to handle all documentation necessary to complete the transaction. ([#20110394](#)-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 Hall moved approval, seconded by Commissioner Manning, called and carried.

B) ACTION REQUESTED/PURPOSE:

Authorize the Division of County Lands to make a binding offer to property owner Fort Myers Beach Lodge No. 362 F. & A.M., in the amount of \$1,500.00 for Parcel 2 (2,825± square feet) for the Force Main Replacement (San Carlos Boulevard to Fort Myers Beach Waste Water Treatment Plant) Project No. 7313. If offer is accepted, authorize Chair to execute the [Purchase Agreement](#). Pursuant to the Purchase Agreement, authorize payment of costs to close in the approximate amount of \$750.00, and the Division of County Lands to handle all documentation necessary to complete the transaction.

([#20110395](#)-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 Hall 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 [Sumcarlos Limited Partnership](#), in the amount of \$1,500.00 for Parcel 3 (2,286± square feet) for the Force Main Replacement (San Carlos Boulevard. to Fort Myers Beach Waste Water Treatment Plant) Project No. 7313. If offer is accepted, authorize Chair to execute the Purchase Agreement. Pursuant to the Purchase Agreement, authorize payment of costs to close in the approximate amount of \$750.00, and the Division of County Lands to handle all documentation necessary to complete the transaction.

(#20110396-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 Hall 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 Paven LLC, in the amount of \$1,500.00 for Parcel 4 (500± square feet) for the Force Main Replacement (San Carlos Boulevard to Fort Myers Beach Waste Water Treatment Plant) Project No. 7313. If offer is accepted, authorize Chair to execute the Purchase Agreement. Pursuant to the Purchase Agreement, authorize payment of costs to close in the approximate amount of \$500.00, and the Division of County Lands to handle all documentation necessary to complete the transaction. ([#20110397](#)-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 Hall moved approval, seconded by Commissioner Manning, called and carried.

6. HUMAN SERVICES

No requests received.

7. INDEPENDENT

A) ACTION REQUESTED/PURPOSE:

Award B-11-16 University Overlay Landscape & Irrigation Maintenance (MSBU), for Department of Public Resources, to the lowest responsive, responsible bidder meeting all bid requirements, [Amera-Tech, Inc. d.b.a. Florida Evergreen Landscape & Lawn Care](#) (a local vendor), for a monthly total of \$4,800.00, and a not-to-exceed annual amount of \$57,600.00 plus additional fees for Mark Ups, Additional Work Requested and Emergency Work, with a project duration of two (2) years with two (2) additional one (1) year renewals. Also, authorize Chair to execute agreements upon receipt.

(#20110385-PUBLIC RESOURCES)

FUNDING SOURCE:

Fund: SA MSBU Program University Overlay Landscape Project O&M Contracted Services.

WHAT ACTION ACCOMPLISHES:

Provides Lee County with a contractor to perform routine landscape and irrigation maintenance for Ben Hill Griffin Parkway – from Alico Road to Corkscrew Road & Corkscrew Road from 150 feet west of north turn into Miromar Outlet Mall to Ben Hill Griffin Parkway.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Approve revisions to the Memorandum of Understanding (MOU) between Lee County and below listed participating entities for the health benefits plans effective January 1, 2011.

[East County Water Control District](#)
[Sanibel Fire Rescue District](#)
[Fort Myers Shores Fire Department](#)
[Supervisor of Elections](#)
[Upper Captiva Fire Rescue District](#)
[20th Judicial Court-Administration Office](#)
[Fort Myers Beach Fire Control District](#)

[Fort Myers Beach Mosquito Control](#)
[Clerk of Circuit Courts](#)
[Captive Island Fire Control District](#)
[Property Appraiser](#)
[District Medical Examiner](#)
[Port Authority](#)
[Lee County Tax Collector](#)

(#20110389-HUMAN RESOURCES)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Board approval will allow the execution of a consistent benefits MOU document for the fourteen participating entities on the health plan.

MANAGEMENT RECOMMENDATION:

Approve.

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

C) ACTION REQUESTED/PURPOSE:

Approve, and authorize Chair to execute, [Change Order No. 1 to Contract No. 5292](#), project RFQ-10-07 Construction Management to Corkscrew Road Safety Improvements, to Owen Ames Kimball, Inc., (a local contractor), in the amount of \$132,490.44.

(#20110421-PUBLIC RESOURCES)

FUNDING SOURCE:

Fund – CIP MSBU SA – Corkscrew Road Construction.

WHAT ACTION ACCOMPLISHES:

Compensates Construction Manager for the design services and construction of the relocation of water and sewer lines and allows for additional time on the Corkscrew Road Safety Improvements project.

MANAGEMENT RECOMMENDATION:

Approve.

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

8. NATURAL RESOURCES/ SOLID WASTE

A) ACTION REQUESTED/PURPOSE:

Approve Resolution to the West Coast Inland Navigation District (WCIND) requesting funding totaling \$1,619,611.00, for FY12 for the [projects](#) listed in priority order. Also, authorize Natural Resources Division Liaison to sign and submit applications.

(#20110417-NATURAL RESOURCES)

FUNDING SOURCE:

No County funds required at this time. A budget amendment resolution will be processed to account for WCIND Waterway Development Program funds as awarded.

WHAT ACTION ACCOMPLISHES:

WCIND rules require a Resolution requesting grant funding.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO.11-05-10](#)

9. PARKS AND RECREATION

A) ACTION REQUESTED/PURPOSE:

Approve the Lakes Regional Park Land Stewardship Plan.

(#20110418-PARKS AND RECREATION)

FUNDING SOURCE:

N/A.

WHAT ACTION ACCOMPLISHES:

Adopts a Land Stewardship Plan for Lakes Park establishing management goals and timelines to address the stewardship of the parks' natural resources.

MANAGEMENT RECOMMENDATION:

Approve.

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

10. PUBLIC SAFETY

A) **ACTION REQUESTED/PURPOSE:**

Authorize Chair to execute [acceptance letter](#) and agreement to accept award from the State of Florida Division of Emergency Management providing \$10,125.00 in grant funds to support the [Lee County Citizen Corps](#) program; and \$6,750.00 in grant funds to support [Lee County Community Emergency Response Teams](#) (CERT). No County match required. Approve Budget Amendment Resolution in the amount of \$10,125.00 (Citizen Corp) and \$6,750.00 (CERT) for a total of \$16,875.00 and approve the expenditures in the like amount. (#20110413-PUBLIC SAFETY)

FUNDING SOURCE:

Fund—General Fund; Grant Funded.

WHAT ACTION ACCOMPLISHES:

Provides financial support for Lee County Citizen Corp and CERT Activities.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO. 11-05-11](#)

11. PUBLIC WORKS ADMINISTRATION

No requests received.

12. TRANSPORTATION

A) **ACTION REQUESTED/PURPOSE:**

Approve, and authorize Chair to execute, [Change Order No. 5 to Contract No. 4206](#), under CN-07-13 CEI Services for Various Lee County Roads - College Parkway Intersection in conjunction with Summerlin Road Six Laning and Cypress Lake Drive to Boy Scout Drive, to T.Y. Lin International, (a local consultant), in the not-to-exceed amount of \$277,297.22. (#20110372-TRANSPORTATION)

FUNDING SOURCE:

Fund – Road Impact Fee – Central District; Program – Capital Projects; Project – Summerlin Road – Boy Scout to Cypress Lake.

WHAT ACTION ACCOMPLISHES:

Provides continuing CEI (Construction Engineering Inspection) services for the College Parkway / Summerlin Road Six Laning intersection and Cypress Lake Drive to Boy Scout Drive through June 2011.

MANAGEMENT RECOMMENDATION:

Approve.

PULLED FOR DISCUSSION

Commissioner Bigelow stated that, while this item is necessary, he would be casting a protest vote due to Posen Construction's poor performance and cost escalations. He further requested and received assurance from County Attorney Michael Hunt that overage items would be included in any legal action that may be filed on behalf of the County. Commissioner Manning moved approval, seconded by Commissioner Judah. Deputy Department of Transportation Director Paul Wingard explained the necessity of this item, and advised that the anticipated completion date is June 15, 2011, with punch list items extending for a portion of the summer. Commissioner Hall requested that the subject of planning for major projects of this type be addressed at a Management and Planning meeting when a new DOT Director is in place. The motion was called and carried with Commissioner Bigelow voting nay.

B) ACTION REQUESTED/PURPOSE:

Award B-11-17 Annual Contract for Fiber Optic Cable, Parts and Installation to both responsive, responsible bidders meeting all bid requirements as follows: [Precision Contracting Services](#) (a non-local vendor) and [Aztek Communications of Florida](#) (a local vendor). The contract shall be for a period of one (1) year with two (2) one-year options. Projects shall be issued on a per-project basis, based upon unit prices, with an annual budget not to exceed \$500,000.00. Also, authorize Chair to execute Agreement upon receipt. ([#20110369](#)-TRANSPORTATION)

FUNDING SOURCE:

To be determined by each project, to include:

Fund - Transportation Trust Fund; Program - DOT Traffic.

Fund - Transportation Capital Improvement; Program - Capital and Maintenance Projects.

WHAT ACTION ACCOMPLISHES:

Provides Lee County with two vendors to purchase and install traffic cable and parts for DOT Traffic and various County departments and divisions. This contract shall be utilized in the event of a hurricane or man-caused emergency in accordance with the terms, conditions and construction provisions of the Federal Highway Administration (FHWA) and/or Federal Emergency Administration (FEMA) requirements.

MANAGEMENT RECOMMENDATION:

Approve.

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

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

Developer Contributed Asset: Approve final acceptance, by Resolution and recording of [one utility easement](#), as a donation of a water main extension, one potable water service, one 10-inch diameter fire line and one force main connection, to provide potable water service, fire protection and sanitary sewer service to the recently constructed Daniels Parkway Fire Station. This asset project is located at the southwest corner of Daniels Parkway and Sophomore Lane. ([#20110391](#)-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 Hall moved approval, seconded by Commissioner Manning, called and carried.

[RESOLUTION NO. 11-05-12](#)**B) ACTION REQUESTED/PURPOSE:**

Developer Contributed Asset: Approve construction of one 10-inch diameter master meter assembly and a force main extension serving Southland Lakes, to provide potable water service, fire protection, and sanitary sewer service to this proposed multi-family, commercial, and industrial subdivision. This asset project is located at the southeast corner of I-75 and Luckett Road. ([#20110392](#)-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 Hall moved approval, seconded by Commissioner Manning, called and carried.

C) ACTION REQUESTED/PURPOSE:

Developer Contributed Asset: Approve final acceptance, by Resolution and recording of [one \(1\) utility easement](#), as a donation of one force main connection, to provide sanitary sewer service to Dollar General Pine Island, a recently-constructed commercial building. This asset project is located on the east side of Stringfellow Road, approximately ¼ mile

south of Pine Island Road. ([#20110362-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 Hall moved approval, seconded by Commissioner Manning, called and carried.

[RESOLUTION NO. 11-05-13](#)

14. COUNTY ATTORNEY

A) ACTION REQUESTED/PURPOSE:

Request authorization to advertise for and conduct a Public Hearing on Tuesday, June 14, 2011 at 9:30 a.m., to consider the adoption and execution of the proposed Towing Ordinance and the maximum rates schedule. ([#20110412-COUNTY ATTORNEY](#))

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Sets Public Hearing date of June 14, 2011 at 9:30 a.m. in order for the Board to formally adopt the proposed Ordinance at a Public Hearing.

MANAGEMENT RECOMMENDATION:

Approve authorization to advertise for and conduct a Public Hearing on Tuesday, June 14, 2011 at 9:30 a.m.

PULLED FOR DISCUSSION

Following response by Assistant County Attorney Jed Schneck to a question by Commissioner Bigelow on notifications, Commissioner Judah moved approval, seconded by Commissioner Manning. The motion was called and carried.

B) ACTION REQUESTED/PURPOSE:

Direct the proposed amendments to the Land Development Code to two public hearings as follows: First Public Hearing: June 14, 2011 at 5:05 p.m. Second Public Hearing: August 9, 2011 at 9:30 a.m., or as soon thereafter as may be heard.

([#20110422-COUNTY ATTORNEY](#))

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

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

MANAGEMENT RECOMMENDATION:

Approve.

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

C) ACTION REQUESTED/PURPOSE:

Approve recommended hearing date for an amendment to the Land Development Code to update the Road Impact Fee Regulations set forth in Chapter 2 of the Code. Recommended hearing date: June 14, 2011 at 5:00 p.m. ([#20110424-COUNTY ATTORNEY](#))

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Public hearings are required to adopt amendments to the Land Development Code. The public hearing provides the public an opportunity to comment on the proposed fee schedule and amendments to the Code. Establishes the hearing date for advertising purposes.

MANAGEMENT RECOMMENDATION:

Approve

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

D) ACTION REQUESTED/PURPOSE:

Direct an ordinance amending Lee County Ordinance 09-19, known as the Lee County Child Safety Zone Ordinance, to Public Hearing in Board Chambers on June 14, 2011, at 9:30 a.m. ([#20110432](#)-COUNTY ATTORNEY)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Amends the Lee County Child Safety Zone Ordinance to eliminate those provisions deemed unconstitutional by the Circuit Court; and reflects compliance with recently adopted state legislation pertaining to loitering and prowling by certain offenders in proximity to children.

MANAGEMENT RECOMMENDATION:

Approve.

PULLED FOR DISCUSSION

Following response by Assistant County Attorney Dawn Lehnert to the question by Commissioner Bigelow on the reason for the amendment action, Commissioner Judah moved approval, seconded by Commissioner Manning. The motion was called and carried.

15. HEARING EXAMINER

No requests received.

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

Approve issuance of purchase order in the amount of \$305,000.00 to the Lee County Property Appraiser for postage and printing of the 2011 "Notice of Proposed Property Taxes" (TRIM Notice) mailing and approve necessary [funds transfer from reserves](#). ([#20110407](#)-PROPERTY APPRAISER)

FUNDING SOURCE:

The postage expenses are payable in advance to the Lee County Property Appraiser and funds are available in CE5130400100.504211 (General Fund, Property Appraiser, Support to Property Appraiser, Postage).

WHAT ACTION ACCOMPLISHES:

Provides the funding for printing and mailing of "Notices of Proposed Property Taxes or TRIM Notices."

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Approve the Minutes for the following meetings of the Board of County Commissioners held during the week of May 16 through May 20, 2011:

May 16, 2011 (Zoning), May 17, 2011 (Regular).

([#20110428](#)-MINUTES)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

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

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Hall 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. ([#20110430](#)-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.

D) ACTION REQUESTED/PURPOSE:

Approve the Lee County Sheriff's Office to execute the FY 2011 State Criminal Alien Assistance Program (SCAAP) on line grant application. ([#20110408-SHERIFF](#))

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Approval will allow the LCSO to submit the online application for reimbursement expenditures associated with housing illegal aliens in our detention facilities.

MANAGEMENT RECOMMENDATION:

Approve.

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

E) ACTION REQUESTED/PURPOSE:

Approve funding in the amount of \$8,270.00 for the purchase of Minutes Office recording software and hardware in order to properly record meetings held outside the Board of County Commissioner's chambers. Approve [budget transfer](#) increasing the funding to the Clerk by \$8,270.00. ([#20110437-FINANCE](#))

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Provides funding to purchase proper equipment for recording Board meetings held offsite where audio capability is not available and must be transported from the Minutes Office to the location of the meeting.

MANAGEMENT RECOMMENDATION:

Approve.

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

F) ACTION REQUESTED/PURPOSE:

Present for information purposes interim reporting on selected financial activity and provide an update on the economic changes in today's market (see background information). ([#20110438-FINANCE](#))

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

To provide interim reporting on selected funds, revenues and expenditures of the Lee County Board of County Commissioners. Included in this report in compliance with Chapter 218.415, Florida Statutes, Local Investment Policies, is the stated and fair market value of the investments managed by the Clerk's Office. To include the Lee County Ordinance 02-28 activity for the Driver's Education Safety Trust Fund.

MANAGEMENT RECOMMENDATION:

The purpose of this report is to convey the financial status of selected significant funds of the Lee County Board of County Commissioners, the status of specific revenues and expenditures as of the stated dates, and the market value of investments managed by the Clerk's Office on behalf of the Board.

Commissioner Hall 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

A) ACTION REQUESTED/PURPOSE:

Select a name for the "new" Fort Myers Beach property based on the rankings by the Fort Myers Beach Community Resource Advisory Board (CRAB) and approved by the Town Council of Fort Myers Beach at their council meeting of May 16, 2011.

(#20110402-PARKS AND RECREATION)

FUNDING SOURCE

N/A

WHAT ACTION ACCOMPLISHES

Finalizes a name for the Fort Myers Beach Property that was acquired by Lee County on September 13, 2010.

MANAGEMENT RECOMMENDATION

Approve.

Public Parks and Recreation Director Barbara Manzo reviewed the naming options and various recommendations for the recently acquired Fort Myers Beach park property, with additional input by Fort Myers Beach Town Council Member Bob Raymond. Commissioner Judah moved to approve the name "Crescent Beach Park," seconded by Commissioner Manning. Following further discussion on the addition of the designation "Family Park," and explanation by the motion maker for not including that distinction, the motion was called and failed. Commissioner Hall moved to approve the name "Crescent Beach Family Park," seconded by Commissioner Bigelow, called and carried.

10. PUBLIC SAFETY

No requests received.

11. PUBLIC WORKS ADMINISTRATION

No requests received.

12. TRANSPORTATION

No requests received.

13. UTILITIES

No requests received.

14. COUNTY ATTORNEY

No requests received.

15. HEARING EXAMINER

No requests received.

16. CONSTITUTIONAL OFFICERS

No requests received.

17. PORT AUTHORITY AND OTHER GOVERNING BOARDS

No requests received.

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

1. ACTION REQUESTED/PURPOSE:

Conduct a Public Hearing and consider the adoption of an Ordinance repealing and replacing Ordinances 05-13 and 08-10, relating to "Garbage, Recycling and Solid Waste Collection and Disposal for Lee County". ([#20110403](#)-SOLID WASTE)

FUNDING SOURCE:

Solid Waste Enterprise Fund.

WHAT ACTION ACCOMPLISHES:

Establishes a Public Hearing to consider the subject ordinance. If ordinance is adopted, a "grandfathering" period will be established to allow two private companies to collect specific recoverable materials from certain specified mobile home and recreational vehicle parks.

MANAGEMENT RECOMMENDATION:

Management endorses the existing ordinance but can accept a "time-certain" allowance for the collection of recyclables at certain locations and with certain private companies.

Assistant County Attorney Scott Covert approved, as to legal form and sufficiency, the [Affidavit of Publication](#) for this item, and briefly described and clarified the request. Commissioner Manning provided his reasons for retaining the current Ordinances under consideration. Solid Waste Director Lindsey Sampson provided input on the reasons for the requested Ordinance amendment and the resulting outcomes to the 23 properties affected. The Chairman called for public comment and the following individuals came forward, in opposition to repeal and replacement:

- Attorney [Marilyn Miller](#) with Fowler White Boggs, representing Garden Street Iron & Metal, requested deletion of the second sentence on Page 44 of the proposed Ordinance;
- Representing Indian Creek Mobile Home Park – [Kathy Claprod](#);
- Representing Bay Shore Village Mobile Home Park – [Gene Kelly](#);
- Representing Tamiami Village - [Richard Appleford](#);
- Principal with Garden Street Iron & Metal, Inc., - [Robert Weber](#);
- Representing Tamiami Village – [Jim Soppa](#);
- Representing Tamiami Village – [Diane Soppa](#);
- Representing Tamiami Village – [Barbara Oliveira](#);
- Representing Tamiami Village – [Cathy Beck](#) ;
- Representing Old Bridge Village – [Larry Murphy](#).

Mr. Sampson, at the request of Chairman Mann, addressed issues raised by the public speakers. He clarified the basis for the proposed sunset clause date of 2015; and urged the Board not to delete the entire grandfathering provision, which is represented within the second sentence on page 44 of the proposed Ordinance, as suggested. Further Board discussion ensued with reference to a May 26 memorandum from, and input by, Mr. Sampson. It was pointed out that a proposed amendment to an existing Ordinance may be brought to the Board at any time. Following lengthy discussion, Commissioner Manning moved to eliminate the 2015 sunset provision, continue the 2008 grandfather provision, and include the 23 subject mobile home/recreational vehicle parks currently serviced by private vendors 1 and 2. In response to the question by Chairman Mann on the proposed deletion of the second sentence on page 44 of

the proposed Ordinance, Mr. Sampson advised that the motion would strike only the final portion of the sentence that reads “or October 1, 2015, whichever first occurs.” The maker of the motion agreed, and it was seconded by Commissioner Judah for discussion. Assistant County Attorney Covert provided further clarification on grandfathering constraints at the request of Commissioner Judah. The maker of the motion indicated his intent was to allow the subject parks to be permanently grandfathered and allowed to use any dealer. The seconder of the motion further clarified that the parameters of the motion would allow the subject parks to continue to be vested and treated as businesses for purposes of recoverable materials. The motion was called and carried with Commissioner Bigelow voting nay. The Ordinance adopted by the Board and filed was [LEE COUNTY ORDINANCE NO. 11-03](#) ENTITLED:

AN ORDINANCE REPEALING AND REPLACING IN ITS ENTIRETY LEE COUNTY ORDINANCE NOS. 05-13 AND 08-10, RELATING TO GARBAGE, RECYCLING, AND SOLID WASTE COLLECTION AND DISPOSAL FOR LEE COUNTY; CREATING MUNICIPAL SERVICE BENEFIT UNITS WITHIN LEE COUNTY TO BE KNOWN AS MANDATORY SOLID WASTE COLLECTION AND DISPOSAL UNITS FOR SERVICE AREAS; PROVIDING FOR INTENT AND DEFINITIONS; PROVIDING FOR THE PURPOSE OF DISPOSING OF SOLID WASTE WITHIN THEIR BOUNDARIES; ESTABLISHING THE GOVERNING BODY WITH POWERS AND DUTIES; PROVIDING FOR RESIDENTIAL AND COMMERCIAL COLLECTION AND DISPOSAL; PROVIDING FOR ASSESSMENT AND OWNER RESPONSIBILITY; PROVIDING FOR OUTER ISLANDS SERVICE AREAS AND GASPARILLA ISLAND; PROVIDING FOR SPECIAL ASSESSMENT, CERTIFICATION, COLLECTION, SCOPE AND DELINQUENCIES; ASSESSING GOVERNMENTAL PROPERTY; LEVYING SPECIAL ASSESSMENTS AND COLLECTION; CORRECTING ERRORS AND OMISSIONS; ENFORCEMENT OF DELINQUENT ASSESSMENTS; PROVIDING FOR RESPONSIBILITY OF CONTRACTOR AND PROPERTY OWNER FOR GARBAGE, RECYCLING, AND SOLID WASTE COLLECTION; PROVIDING FOR CONTAINER SPACES AND PROHIBITING UNLAWFUL DISPOSAL; PROVIDING FOR ABATEMENT AND ENFORCEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY, SUPPLEMENTAL AUTHORITY AND EFFECTIVE DATE.

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

2. ACTION REQUESTED/PURPOSE:

Conduct a Public Hearing to consider the adoption of an Ordinance relating to the establishment of a temporary moratorium on the issuance of business tax receipts for the operation of "Pain Clinics" or "Pain Management Clinics". This Public Hearing was rescheduled on May 10, 2011 to May 31, 2011 at 9:30 a.m. ([#20110312](#)-COUNTY ATTORNEY)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

The Board must formally adopt an Ordinance at a scheduled, advertised Public Hearing.

MANAGEMENT RECOMMENDATION:

Adopt Ordinance.

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. The Chairman called for public comment; however, no one came forward. Following Board comments acknowledging the Sheriff’s Office for their outstanding efforts in this matter, the motion was called and carried. The Ordinance adopted by the Board and filed was [LEE COUNTY ORDINANCE NO. 11-04](#) ENTITLED:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, PERTAINING TO PAIN CLINICS; ESTABLISHING A MORATORIUM ON THE ISSUANCE OF BUSINESS TAX RECEIPTS FOR THE OPERATION OF “PAIN CLINICS” IN THE UNINCORPORATED AREAS OF LEE COUNTY FOR THE SHORTER OF (1) 12 MONTHS OR (2) THE ADOPTION OF A REPLACEMENT ORDINANCE; PROVIDING FOR DEFINITIONS, GEOGRAPHICAL AREAS, CONFLICTS AND SEVERABILITY; PROVIDING FOR CODIFICATION AND SCRIVENER’S ERRORS; AND PROVIDING AN EFFECTIVE DATE.

CARRYOVER ITEM NO. 1

3. CONSTRUCTION AND DESIGN

ACTION REQUESTED/PURPOSE:

Approve, and authorize Chair to execute, [Addendum to the Construction Manager Agreement](#) under RFQ-05-08 Justice Center Renovations, to Target Builders, Inc. (a local Contractor), for the project known as Renovations of the Justice Center Pods B, C, D and the Lobby Area of the First Floor, for a Guaranteed Maximum Price of \$5,674,934.00 (includes CM Fee of \$281,679.00), utilizing 99% local sub-contractors, with a substantial completion time of 434 calendar days and final completion within 464 calendar days. Also, approve waiving of the formal process (if needed) and authorize the use of the Direct Material Purchase Orders as provided for in the CM agreement with Lee County, which allows the County to purchase directly from suppliers of equipment and/or materials as a cost/time saving measure. ([#20110330](#)-CONSTRUCTION AND DESIGN)

FUNDING SOURCE:

Fund: General Fund; Program –Major Maintenance; Project – Justice Center Renovations Pods B, C, D & Lobby First FL).

WHAT ACTION ACCOMPLISHES:

Provides Lee County with a Construction Manager to provide all labor and materials for the renovations of the Lee County Justice Center Annex, Pods B, C, D and the Lobby Area of the First Floor.

MANAGEMENT RECOMMENDATION:

Approve.

REASON FOR CARRY OVER:

Deferred for one week at the May 24, 2011 Board meeting.

Construction and Design Manager Damon Grant provided a brief review of this portion of a previously budgeted project, and County Manager Karen Hawes agreed to provide a CIP Budget update. Commissioner Judah moved approval, seconded by Commissioner Manning, called and carried with Commissioner Bigelow voting nay.

COMMISSIONER ITEMS

MEMORIAL DAY OBSERVANCES – Commissioner Hall thanked Lee County communities for their recognition this past weekend to honor our service men and women.

STATE BUDGETARY ITEMS – Commissioner Judah requested a consensus to send a letter to our legislature to pursue overrides of certain line item vetoes by Governor Scott. Following discussion, there was agreement by Chairman Mann that he would work with Assistant County Manager Holly Schwartz to draft a letter for Board approval at next week's meeting. Chairman Mann indicated he would also attempt to speak directly with Senate President Haridopolos and Senator Benacquisto while they are here for a breakfast meeting.

Commissioner Manning left the Chambers at 11:30 a.m. and was absent for the remainder of the meeting.

SCHOOL RESOURCE OFFICERS (SRO) – Commissioner Judah addressed an impasse with the School District and the municipalities of Fort Myers and Cape Coral over the funding of SRO's. He identified the need for a meeting of those entities as summer school would be starting next week. Assistant County Manager Pete Winton and Sheriff Mike Scott reported on the current situation and the Sheriff expressed the wide variety of safety reasons that a uniformed officer was necessary in Lee County schools. Commissioner Hall suggested further discussion on the multiple issues surrounding this matter at a Management and Planning meeting. There was consensus to direct staff to work with the School District and involved cities and report to the Board in two weeks.

COMMITTEE APPOINTMENTS

Commissioner Hall moved to re-appoint Jim Reilly, Cape Coral Councilman Derrick Donnell, Deputy Chief Bart Connelly and Jeanne Sweeney to the **HUMAN SERVICES COUNCIL**, seconded by Commissioner Judah, called and carried with Commissioner Manning absent.

Commissioner Judah moved to re-appoint Julia East, Tina Gelpi, and Bonita Springs Councilman Steven Slachta to the **HUMAN SERVICES COUNCIL**, and to re-appoint John Stahl to the **IONA GARDENS LIGHTING UNIT**, Madelyn Isaacs to the **CORKSCREW ROAD SPECIAL IMPROVEMENT UNIT**, and DuWayne Boudin to the **SHELTERING PINES MOBILE HOME VILLAGE IMPROVEMENT UNIT**, seconded by Commissioner Hall, called and carried with Commissioner Manning absent.

Chairman Mann requested a motion to re-appoint Robert N. Beliveau to the **RIVERDALE SHORES IMPROVEMENT UNIT**, Lance M. McKinney to the **HUMAN SERVICES COUNCIL**, and Michael Elgin to the **CORKSCREW ROAD SPECIAL IMPROVEMENT UNIT**. Commissioner Judah moved approval, seconded by Commissioner Bigelow, called and carried with Commissioner Manning absent. .

COUNTY MANAGER ITEMS

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

COUNTY ATTORNEY ITEMS

Deputy County Attorney Andrea Fraser had no items for discussion.

The Chairman adjourned the meeting at 11:48 a.m.

ATTEST:
CHARLIE GREEN, CLERK

Deputy Clerk

[Chairman, Lee County Commission](#)