

FEBRUARY 22, 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
Ray Judah
Tammara Hall

COMMISSIONER BIGELOW WAS ABSENT FOR THE ENTIRE MEETING DUE TO ILLNESS.

The Chairman called the meeting to order at 9:31 a.m. The Invocation was given by Pastor Walter Still, Peace Lutheran Church; and included a moment of silence in recognition of the recent passing of Becky Noble, wife of Community Development Planner Matt Noble, followed by the Pledge of Allegiance.

THE ANNOUNCEMENTS PORTION OF THE AGENDA WAS HEARD AT THIS TIME. SEE THAT ITEM FOR ACTION TAKEN.

PRESENTATIONS

Commissioner Mann read and presented a Ceremonial Resolution extending greetings and best wishes to all observing Engineers Week, February 20-26, 2011. Representatives of the Calusa Chapter of the Florida Engineering Society, Patrick Day, Nathan West and Walter Gilcher accepted the Resolution and Mr. Day expressed appreciation for the recognition. ([#20110125](#)-Commissioner Bigelow)

Commissioner Hall read and presented a Ceremonial Resolution proclaiming the week of March 7, 2011 as Firefighter Appreciation Week in Lee County, and commending the firefighters of IAFF Local #1826 for their efforts on behalf of the Muscular Dystrophy Association. Mike Holobinko representing IAFF Local 1826 and MDA of Fort Myers representative Jill Balzano accepted the Resolution, and thanked the Board and the community for their support. ([#20110126](#)-Commissioner Manning)

Commissioner Judah read and presented a Ceremonial Resolution designating February 20 through 26, 2011 as Children's Hospital Week in Lee County, and encouraging all citizens to join in showing appreciation and gratitude to the Children's Hospital of Southwest Florida, the Boston Red Sox and Forest Country Club in raising public awareness and working together to raise \$1 million through the Boston Red Sox - Children's Hospital Celebrity Golf Classic to benefit the Children's Hospital of Southwest Florida. Lee Memorial Hospital representatives Karra Strickland and Ali Levine, Celebrity Classic Chairman Ron McEwan and Forest Country Club representatives Frank Haskell and Jonathan Yancey accepted the Resolution with Ms. Strickland and Mr. McEwan expressing their gratitude for the support and recognition. ([#20110127](#)-Commissioner Judah)

Commissioner Manning read and presented a Ceremonial Resolution on behalf of the Board of County Commissioners of Lee County, Florida – along with Lee County's Parks & Recreation Department, Visitor & Convention Bureau, Sports Authority, Facilities Management Division and the City of Fort Myers – do hereby proclaim its full support for the Boston Red Sox organization and send most sincere best wishes for success in the upcoming 2011 baseball season. Red Sox representatives Katie Haas thanked everyone for the support and best wishes. ([#20110128](#)-Commissioner Mann)

Commissioner Mann read and presented a Ceremonial Resolution conveying the Board's grateful appreciation to Gordon "Booch" DeMarchi for his 25 years of hard work, outstanding service and contributions to Lee County, and wished Booch and his wife Ginger much happiness in his well-deserved retirement. Mr. DeMarchi expressed heartfelt comments of appreciation to the Board and staff. ([#20110143](#) - Commissioner Mann)

ANNOUNCEMENTS

Referring to the Agenda Revision [Recap Sheet dated February 22, 2011](#), the Chairman announced that:

Consent Agenda Item 16E should be moved to the Administrative Agenda as Item A16A to allow for quarterly dialogue with Clerk of Court Charlie Green regarding the Financial Activity Report.

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

One Walk-On Item would be taken as a final Ceremonial Resolution (see Presentations above).

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

A14B – Fort Myers resident [Don Blackburn](#)

A14B – Abuse Counseling & Treatment Inc. Program Supervisor [Camille Martin](#)

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

CONSENT AGENDA

1. COUNTY ADMINISTRATION

No requests received.

2. COMMUNITY DEVELOPMENT

No requests received.

3. CONSTRUCTION AND DESIGN

A) ACTION REQUESTED/PURPOSE:

Concur with the ranking by the Competitive Negotiations Committee for CN-11-02 Veteran's Park Phase Four in the following order: 1) David M. Jones Jr. and Associates, Inc., 2) Greeley and Hansen, 3) Avalon Engineering, Inc., and 4) Agnoli, Barber & Brundage, Inc. (all local Consultants) and authorize negotiations with the number one ranked firm. ([#20110120](#)-CONSTRUCTION AND DESIGN)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

To provide services necessary to modify the previously approved site plan based on the updated improvement program for Veteran's Park Phase Four.

MANAGEMENT RECOMMENDATION:

Approve.

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

4. COUNTY COMMISSIONERS

No requests received.

5. COUNTY LANDS

A) ACTION REQUESTED/PURPOSE:

Accept donation of [Grant of Perpetual Pedestrian/Bus Stop Shelter Easement](#) (±160 square feet) from property owner Racetrac Petroleum, Inc., for location at 314 Del Prado Boulevard North, easement interest in a portion of STRAP No 07-44-24-C3-01498.0190, for the Lee County Transit Bus Shelters Project. Also, authorize payment of estimated costs to close of \$50.00, and the Division of County Lands to handle all documentation necessary to complete transaction. ([#20110098](#)-COUNTY LANDS)

FUNDING SOURCE:

This shelter is 100% funded by the Federal Transit Administration and funds are budgeted in the Transit Capital Fund in the Fixed Route Program.

WHAT ACTION ACCOMPLISHES:

Acquisition of a perpetual easement for construction and operation of bus stop shelter facilities.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Approve Purchase Agreement for acquisition of Parcel 152 (±9,091 square feet) from property owners [David W. and Corine Harrison](#), STRAP No.16-44-25-P3-00070.0000, in the amount of \$78,000.00, for the Ortiz Avenue Widening Project No. 4072. Pursuant to the Purchase Agreement; authorize payment of estimated costs to close of \$1,250.00, and the Division of County Lands to handle all documentation necessary to complete this transaction. ([#20110099](#)-COUNTY LANDS)

FUNDING SOURCE:

Fund: Road Impact Fee – Central District; Program: Capital Project; Project: Ortiz Avenue – Martin Luther King Boulevard to Luckett Road

WHAT ACTION ACCOMPLISHES:

Acquisition of property necessary for the Ortiz Avenue Widening Project, without the necessity of an eminent domain action.

MANAGEMENT RECOMMENDATION:

Approve.

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

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

Approve [Program Amendment](#) to the Lee County 2007, 2008, 2009, and 2010 Annual Action Plans for U.S. Department of Housing and Urban Development (HUD); and authorize Chair to sign related documents. ([#20110033](#)-HUMAN SERVICES)

FUNDING SOURCE:

HUD Emergency Shelter Grant (ESG), Community Development Block Grant (CDBG), and HOME Investment Partnership Program (HOME).

WHAT ACTION ACCOMPLISHES:

Amends budget categories and objective reporting requirements for the affected Annual Action Plans.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Approve Program [Substantial Amendment to the Lee County HUD Annual Action Plan](#) Department of Housing and Urban Development (HUD) Fiscal Year (FY) 2010/Lee County FY2011 for the purpose of receiving [Neighborhood Stabilization Program 3 \(NSP3\) funds](#). Also, approve Budget Resolution in the amount of \$6,639,174.00; and authorize Chair to sign documents and [NSP3 sub-recipient agreements](#) and/or amendments to existing NSP1 agreements to carry out [NSP3 activities](#). ([#20110082](#)-HUMAN SERVICES)

FUNDING SOURCE:

HUD CDBG/NSP3.

WHAT ACTION ACCOMPLISHES:

Allows Department of Human Services to implement the substantial amendment for the NSP3 program.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO. 11-02-12](#)**C) ACTION REQUESTED/PURPOSE:**

Approve, and authorize Chair to execute, an [Agreement](#) to receive \$2,474,161.00 from the State of Florida, Department of Community Affairs, for the Low Income Home Energy Assistance Program (LIHEAP). Also, approve a FY11 budget amendment resolution for LIHEAP funds, and authorize the Department of Human Services to hire or contract for two grant-funded positions, as needed, to carry out grant activities. ([#20110119](#)-HUMAN SERVICES)

FUNDING SOURCE:

State of Florida Department of Community Affairs.

WHAT ACTION ACCOMPLISHES:

Provides \$2,474,161.00 in grant funds to LIHEAP for payment of utilities to eligible low-income Lee County residents.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO. 11-02-13](#)

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

Adopt Library budget amendment resolution in the amount of \$588,346.00 to recognize FY10-11 State Aid Grant proceeds, State Project#11-ST-25. ([#20110036-LIBRARY](#))

FUNDING SOURCE:

Florida Department of State/State Library and Archives; Program: State Grant.

WHAT ACTION ACCOMPLISHES:

The budget amendment accepts \$588,346.00 as unanticipated revenue and designates grant expenditures.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO. 11-02-14](#)

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

Approve [Change Order No. 13](#) to the Service Provider Agreement Contract #462 with FCR, Inc. (Lee) which extends the recycling facility Operations & Maintenance Agreement for two years, and provides additional guaranteed revenue of approximately \$145,000.00 per year to the County. Also, authorize staff to approve up to two additional two-year term extensions, if determined at the time to be in the best interest of the County. ([#20110118-SOLID WASTE](#))

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

This Change Order will extend the term of services by the contract operator for the recycling facility and provide additional guaranteed revenue to the County.

MANAGEMENT RECOMMENDATION:

Approve.

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

9. PARKS AND RECREATION

No requests received.

10. PUBLIC SAFETY**A) ACTION REQUESTED/PURPOSE:**

Approve, and authorize Chair to execute, renewal of a Certificate of Public Convenience and Necessity (COPCN) to the [Fort Myers Beach Fire Control District](#) to conduct advance life support (ALS) transport service, emergency medical care. ([#20110088-PUBLIC SAFETY](#))

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Grants the applicant license to provide ALS transport service in accordance with State law

and provision contained in Lee County Ordinance 08-16.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Approve, and authorize Chair to execute, renewal of a Certificate of Public Convenience and Necessity (COPCN) to the [South Trail Fire Protection and Rescue Service](#) (District) to conduct advance life support (ALS) non-transport service, emergency medical care.

(#20110090-PUBLIC SAFETY)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Grants the applicant license to provide ALS non-transport service in accordance with State law and provision contained in Lee County Ordinance 08-16.

MANAGEMENT RECOMMENDATION:

Approve..

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

C) ACTION REQUESTED/PURPOSE:

Approve, and authorize Chair to execute, renewal of a Certificate of Public Convenience and Necessity (COPCN) to the [San Carlos Park Fire Protection and Rescue Service District](#) to conduct advance life support (ALS) non-transport service, emergency medical care.

(#20110092-PUBLIC SAFETY)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Grants the applicant license to provide ALS non-transport service in accordance with State law and provision contained in Lee County Ordinance 08-16.

MANAGEMENT RECOMMENDATION:

Approve.

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

D) ACTION REQUESTED/PURPOSE:

Approve, and authorize Chair to execute, renewal of a Certificate of Public Convenience and Necessity (COPCN) to the [Lehigh Acres Fire Control and Rescue District](#) to conduct advance life support (ALS) transport service, emergency medical care.

(#20110093-PUBLIC SAFETY)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Grants the applicant license to provide ALS transport service in accordance with State law and provision contained in Lee County Ordinance 08-16.

MANAGEMENT RECOMMENDATION:

Approve.

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

E) ACTION REQUESTED/PURPOSE:

Approve, and authorize Chair to sign, three modifications to allow Lee County to utilize their own [travel reimbursement policies](#):

- 1) [EMPA Grant Agreement #11-BG-05-09-46-01-155](#);
- 2) [EMPG Grant Agreement #11-FG-7W-09-46-01-055](#); and
- 3) [Grant Agreement #10-DS-39-09-46-01-409](#)

(#20110105-PUBLIC SAFETY)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Provides travel reimbursement in accordance with Administrative Code 3-21 (Travel).

MANAGEMENT RECOMMENDATION:

Approve.

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

11. PUBLIC WORKS ADMINISTRATION

No requests received.

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

Approve [budget transfer](#) in the Transportation Capital Improvement Fund #30700 from Reserves, and from the Alico Road Multi-Laning Project #204030, to the Alico Road four-lane (4L)/Ben Hill-Airport Haul Road Project #205075 in the total amount of \$750,000.00 Also, amend the FY 2010/11-2014/15 CIP accordingly.

(#20110117-TRANSPORTATION)

FUNDING SOURCE:

Fund – Transportation Capital Improvement; Program – Capital Projects; Project –Alico Road 4L/Ben Hill-Airport Haul.

WHAT ACTION ACCOMPLISHES:

Establishes a budget for the Alico Road 4L project, allowing DOT to move forward with advertising for a preliminary design consultant.

MANAGEMENT RECOMMENDATION:

Approve.

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

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

Approve, and authorize Chair to execute, [Supplemental Task Authorization No. 1](#), Contract No.5409, to David Douglas Associates, Inc., under CN-10-13 Miscellaneous Utility Engineering Design and/or Inspection, in the amount of \$89,550.00. Also, approve use of this “Continuing Contract” for total estimated construction costs over \$1 million that exceeds the current threshold established by Resolution 10-10-15 and Administrative Code 4-4. (#20110097-UTILITIES)

FUNDING SOURCE:

Fund: Utilities Water Connection Fees; Program: Capital Projects; Project: Gladiolus Water/Sewer Relocation – Pine Ridge to Winker.

WHAT ACTION ACCOMPLISHES:

Provides Lee County with a Consultant under an existing “Continuing Contract” to provide Professional Services for the Lee County Utilities (LCU) relocation work associated with proposed Lee County DOT improvements to A&W Bulb Road.

MANAGEMENT RECOMMENDATION:

Approve.

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

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

Approve, and authorize execution by Chair and recording of, an [Agreement with Southwind Owners Association at Fort Myers, Inc.](#), the Lee County Sheriff, and Lee County for the exercise of County jurisdiction over certain roads within Southwind Owners Association at Fort Myers for traffic control purposes.

(#20110110-COUNTY ATTORNEY)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

An Agreement for the County’s exercise of jurisdictional control over private roadways must be approved and executed by the Board pursuant to Florida Statutes.

MANAGEMENT RECOMMENDATION:

Approve.

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

15. HEARING EXAMINER

No requests received.

16. CONSTITUTIONAL OFFICERS

A) 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. ([#20110131](#)-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 with Commissioner Bigelow absent.

B) ACTION REQUESTED/PURPOSE:

Approve Minutes for the following meetings of the Board of County Commissioners held during the week of February 7 through February 11, 2011:

February 7, 2011 (Zoning), February 7, 2011 (Management & Planning),
February 8, 2011 (Regular).

([#20110132](#)-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 with Commissioner Bigelow absent.

C) ACTION REQUESTED/PURPOSE:

Approve disbursement of excess funds resulting from the sale of tax deed certificates to claimants verified and certified under Florida Statutes 197.582 as follows:

Tax Number	Deed	Payee	Amount
2009004312		Syed A Raza	\$ 15.42
		Iram Raza	\$ 15.42
2009005759		First American Mortgage Inc	\$139.73
2010000704		Lehigh 34 LLC	\$542.91

([#20110133](#)-DELINQUENT TAX)

FUNDING SOURCE:

Proceeds from a tax deed sale in excess of the taxes and/or liens owed are being held by the Board for disbursements in accord with Florida Statutes, Chapter 197.

WHAT ACTION ACCOMPLISHES:

Provides for disbursement of excess tax deed proceeds to an appropriate claimant in compliance with statutory rules and requirements.

MANAGEMENT RECOMMENDATION:

Approve disbursements to identified claimants.

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

D) ACTION REQUESTED/PURPOSE:

Approve and accept grant monies from the 2010 Paul Coverdell Forensic Sciences Improvement Grant, in the amount of \$5,510.00, from the Florida Department of Law Enforcement through the US Department of Justice, National Institute of Justice program. Also, approve Budget Resolution in the amount of \$5,510.00.

(#20110134-MEDICAL EXAMINER)

FUNDING SOURCE:

Paul Coverdell Forensic Sciences Improvement Grant.

WHAT ACTION ACCOMPLISHES:

Lee County to accept grant monies in the amount of \$5,510.00 from the Florida Department of Law Enforcement.

MANAGEMENT RECOMMENDATION:

Approve.

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

RESOLUTION NOS. [11-02-15](#) and [11-02-16](#)

E) 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. (#20110136-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, including 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.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: Consent Agenda Item 16E should be moved to the Administrative Agenda as Item A16A, to allow for dialogue. Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried with Commissioner Bigelow absent.

17. PORT AUTHORITY AND OTHER GOVERNING BOARDS

No requests received.

ADMINISTRATIVE AGENDA

1. COUNTY ADMINISTRATION

No requests received.

2. COMMUNITY DEVELOPMENT

No requests received.

3. CONSTRUCTION AND DESIGN

No requests received.

4. COUNTY COMMISSIONERS

No requests received.

5. COUNTY LANDS

No requests received.

6. HUMAN SERVICES

No requests received.

7. INDEPENDENT

No requests received.

8. NATURAL RESOURCES/ SOLID WASTE

No requests received.

9. PARKS AND RECREATION

No requests received.

10. PUBLIC SAFETY

No requests received.

11. PUBLIC WORKS ADMINISTRATION

No requests received.

12. TRANSPORTATION

No requests received.

13. UTILITIES

No requests received.

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

Approve settlement in Lee County v. Krochina, Case No. 10CA-1085, Parcel 192, Burnt Store Road Widening Project. ([#20110100](#)-COUNTY ATTORNEY)

FUNDING SOURCE:

Fund: Road Impact Fees; Program: Capital Improvement Projects; Project: Burnt Store Road Widening.

WHAT ACTION ACCOMPLISHES:

Settles all claims for acquisition of Parcel 192.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Authorize Chair to request by [letter](#), that the Florida Attorney General present an amendment to Chapter 741, Florida Statutes, regarding the "batterer's intervention

program." Specifically, to require batterer intervention programs be made available to persons convicted of domestic violence while in custody.

(#20110095-COUNTY ATTORNEY)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Proposes amendment to state law regarding domestic violence prevention.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Hall moved approval, seconded by Commissioner Manning. Commissioner Judah referenced an email from public speaker Mr. Blackburn containing suggested language revision to the proposed amendment to Chapter 741, and indicated his suggestion to include it with the legislative package and instruct staff to work on this issue. Following Board discussion, and a legal opinion rendered by Interim County Attorney Andrea Fraser, the motion was called and carried with Commissioner Bigelow absent. Commissioner Mann indicated his intent to also speak with Senator Dave Aronberg to stress the importance of the proposed amendment.

C) **ACTION REQUESTED/PURPOSE:**

Approve mediated settlement in the workers' compensation case of Terrence Duffy v. Lee County, Case No. 10-004409-EDS, inclusive of attorney's fees and costs.

(#20110108-COUNTY ATTORNEY)

FUNDING SOURCE:

Self-Insurance Loss Fund.

WHAT ACTION ACCOMPLISHES:

Resolves this case limiting the County's exposure.

MANAGEMENT RECOMMENDATION:

Approve.

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

D) **ACTION REQUESTED/PURPOSE:**

Approve settlement in case of Lee County v. Morton, Case No. 10CA-437, Parcel 145, Burnt Store Road Project. (#20110122-COUNTY ATTORNEY)

FUNDING SOURCE:

Fund: Road Impact Fees; Program: Capital Improvement Projects; Project: Burnt Store Road Widening.

WHAT ACTION ACCOMPLISHES:

Settles all claims including fees and costs for acquisition of Parcel 145.

MANAGEMENT RECOMMENDATION:

Approve.

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

15. HEARING EXAMINER

No requests received.

16. CONSTITUTIONAL OFFICERS

A) **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. (#20110136-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, including 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.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: Consent Agenda Item 16E should be moved to the Administrative Agenda as Item A16A, to allow for dialogue. Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried with Commissioner Bigelow absent.

Clerk of Courts Charlie Green and Finance Director Donna Harn provided a financial activity update, as requested by the Board. Mr. Green responded to brief Board questions and agreed to provide a [Summary Sheet](#). Ms. Harn reported quarterly statistics, including portfolio investments, monitoring procedures, expenditures, revenue collections, cash balances, budgeted reserves, and loan updates. Mr. Winton provided a payroll statistic in response to the Board question. Following response by Mr. Green and Ms. Harn to several additional questions, there was Board consensus to have an overall loan update at a Management & Planning meeting in the upcoming months.

17. PORT AUTHORITY AND OTHER GOVERNING BOARDS

No requests received.

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

1. ACTION REQUESTED/PURPOSE:

Conduct the first public hearing regarding an Ordinance amending Lee County Land Development Code (LDC). Direct the proposed Ordinance to a second Public Hearing on March 8, 2011 at 9:30 a.m. ([#20110115](#)-COUNTY ATTORNEY)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Satisfies the Board policy to hold two public hearings to amend the LDC. If adopted, the Ordinance will adopt amendments to the Land Development Code.

MANAGEMENT RECOMMENDATION:

Approve.

Assistant County Attorney Michael Jacob approved as to legal form and sufficiency, the [Affidavit of Publication](#) for the 9:30 a.m. Agenda Item 1; and briefly reviewed the request. Commissioner Judah moved approval, seconded by Commissioner Hall. The Chairman called for public input; however, no one came forward. The motion was called and carried.

RESOLUTION NO. 11-02-10

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: WALK-ON ITEM NO. 1 WOULD BE TAKEN UP DURING THE CEREMONIAL PRESENTATIONS.

WALK-ON ITEM NO. 1

4. COUNTY COMMISSIONERS

A) ACTION REQUESTED/PURPOSE:

Ceremonial presentation Booch DeMarchi appreciation.
([#20110143](#)-Commissioner Mann)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

N/A

MANAGEMENT RECOMMENDATION:

N/A

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: One Walk-On Item would be taken as a final Ceremonial Resolution.

Commissioner Mann read and presented a Ceremonial Resolution conveying the Board's grateful appreciation to Gordon "Booch" DeMarchi for his 25 years of hard work, outstanding service and contributions to Lee County, and wished Booch and his wife Ginger much happiness in his well-deserved retirement. Mr. DeMarchi expressed heartfelt appreciation to the Board and staff.

COMMISSIONER ITEMS

ARTWORK DISPLAY – Commissioner Hall invited everyone to view the artwork on display outside her office by artists representing the Visually Impaired Persons of Southwest Florida until March 25.

PRESCRIPTION DRUG AND MONITORING PROGRAM RESOLUTION – Commissioner Hall addressed an upcoming Resolution to support continuance of the Prescription Drug and Monitoring Program and received affirmation by Interim County Attorney Andrea Fraser that they are working on this matter in conjunction with the Sheriff and other community members. Attorney Fraser agreed to coordinate the timing of the Resolution with Commissioner Hall's office to be able to include certain key individuals.

LATER FOLLOWING THE CLEAN WATER ACT ITEM:

Commissioner Hall referenced and moved support of a Resolution, as requested by a constituent Paul Sloan, confirming Lee County's support for continuance of the Prescription Drug Monitoring Program, seconded by Commissioner Judah, called and carried with Commissioner Bigelow absent.

[RESOLUTION NO. 11-02-17](#)

PLATTED LANDS LEGISLATION – Commissioner Manning referenced a memorandum he sent the Board regarding this legislation's beneficial impact on certain lands in western Cape Coral and eastern Lehigh Acres, and moved approval to send the [supporting language](#) onto Senator Mike Bennett's office, seconded by Commissioner Judah, called and carried with Commissioner Bigelow absent.

MS4 PERMIT – Commissioner Manning referenced a memorandum he sent the Board, and moved to support a 30-day delay to afford him an opportunity to meet with staff regarding any potential impacts to Matlacha Aquatic Preserve, seconded by Commissioner Judah, called and carried with Commissioner Bigelow absent.

MOSAIC MINING PERMIT – Commissioner Judah moved that the Board direct the County Attorney, in conjunction with Natural Resources, to draft a letter to the Department of Environmental Protection (DEP) stating opposition to the timing of the most recent permitting granted Mosaic Mining until the area-wide environmental impact assessment of phosphate mining activities is completed by the U.S. Army Corps of Engineers in 18 months. He advised of a 15-day window (from February 15) in which to comment. Commissioner Hall seconded the motion for discussion; however, requested more information on the purpose of the permit being sought. Commissioner Manning stated he would like an opportunity to monitor the permit request and to ascertain the position of Manatee County. Natural Resources Director Roland Ottolini provided clarification on the permit modification. The motion to have a draft letter prepared for review at the Board meeting of March 1st was called and carried with Commissioner Bigelow absent.

CLEAN WATER ACT – Commissioner Judah referenced the mandate by EPA that Florida comply with the Clean Water Act and made a motion for Board consideration of a letter to Rep. Rooney who is proposing a rider on a 2011 Resolution to eliminate funding for the numeric nutrient criteria mandate. Commissioners Hall and Manning expressed their reasons for not being able to support the motion. Following commentary by Commissioner Judah on the merits of the mandate, he agreed to withdraw his motion due to lack of support. Commissioner Hall suggested, and there was consensus, to place this matter on an upcoming Management & Planning Meeting agenda for further discussion.

COUNTY ATTORNEY CONTRACT UPDATE - Chairman Mann advised that negotiations are underway with the selected candidate for Lee County Attorney, Michael Hunt, and that the final draft would be provided to Board members by the end of this week for action at the March 1st meeting.

THANKS TO COMMISSIONER JUDAH – Chairman Mann thanked Commissioner Judah for his recent editorial in the News-Press.

COMMITTEE APPOINTMENTS

Commissioner Manning moved to reappoint John Shaw to the **GASPARILLA ISLAND MUNICIPAL SERVICE BENEFIT UNIT**; and to reappoint Becky Neice to the **WELL CONSTRUCTION ADVISORY COMMITTEE**, seconded by Commissioner Hall, called and carried with Commissioner Bigelow absent.

Commissioner Mann requested a motion to reappoint Rufus Lazzell and Jeffrey Fridkin to the **AIRPORTS SPECIAL MANAGEMENT COMMITTEE**, and to reappoint Richard Callanan to the **HUMAN SERVICES COUNCIL** and Scott Korf to the **WELL CONSTRUCTION ADVISORY COMMITTEE**. Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried with Commissioner Bigelow absent.

COUNTY MANAGER ITEMS

County Manager Karen B. Hawes requested Board approval to reschedule the Management & Planning meeting from Monday, March 7 to March 14. Commissioner Hall indicated that she was not available as indicated on her calendar; however, there was consensus to conduct the meeting on Monday, March 14, beginning at 2:30 p.m.

Assistant County Manager Pete Winton provided a 4-month budget update utilizing a [PowerPoint presentation](#). Mr. Winton responded to Board questions and advised that he has been meeting with the Constitutional Officers with a joint meeting scheduled for late March. He agreed to provide a copy of the agenda when available.

COUNTY ATTORNEY ITEMS

Interim County Attorney Andrea Fraser had no items for discussion.

9:30 A.M. AGENDA ITEM - Public Presentation of Matters by Citizens

Alva resident [Arden Biff Wood](#) addressed the Board on the potential for creating a Civil Review Board.

The Chairman adjourned the meeting at 11:25 a.m.

ATTEST:
CHARLIE GREEN, CLERK

Deputy Clerk

[Chairman, Lee County Commission](#)