

MARCH 29, 2011

The [Regular Meeting](#) of the [Board of Lee County Commissioners](#) was held on this date with the following Commissioners present:

Frank B. Mann, Chairman  
 John Manning, Vice Chairman  
 Ray Judah  
 Tammara Hall  
 A. Brian Bigelow

The Chairman called the meeting to order at 9:30 a.m. The Invocation was given by Pastor Peter Weeks, Zion Lutheran Church, followed by the Pledge of Allegiance to the Flag.

### **PRESENTATIONS**

Commissioner Manning read and presented a [Ceremonial Resolution](#) recognizing the following four (4) Gold Medal Special Olympics Athletes for their dedication and winning spirit that took home a combined total of 10 gold medals: Karen Doham, Elizabeth Figura, Ronnie Eldridge and Bob Staudt. Americans with Disabilities Act/Special Needs Senior Supervisor Amanda Gutierrez, accompanied by Coach George Furlan, accepted the Resolution and thanked the Board. ([#20110226](#)-Commissioner Manning)

Commissioner Judah read and presented a [Ceremonial Resolution](#) recognizing Junior Achievement of Southwest Florida, and designating April 2011 as National Financial Literacy Month to help the local students succeed and grow in an ever expanding global economy. Junior Achievement of Southwest Florida Special Events Manager M. J. Scarpelli accepted the Resolution, and thanked the Board. ([#20110227](#)-Commissioner Judah)

Commissioner Hall announced that Junior Achievement was honoring its own Tony Lapi as the new President of the Tourist Development Council Advisory Board.

Commissioner Judah read and presented a [Ceremonial Resolution](#) committing and encouraging others to the conservation of roadside native wildflowers on the state and county roadways; and instructing County Staff to partner with the Florida Wildflower Foundation, Florida Department of Transportation, and adjoining property owners to plan and implement roadside management practices that will increase the visibility and enjoyment of Florida native wildflowers. Cocoloba Chapter of Florida Native Plant Society President John Sibley accepted the Resolution, and thanked the Board. ([#20110250](#)-Commissioner Judah – Walk-On 1)

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

A12(a) – [Attorney Steve Hartsell](#) of the Pavese Law Firm  
 Walk-On #1 - Cocoloba Chapter of Florida Native Plant Society President [John Sibley](#)

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

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

### **CONSENT AGENDA**

#### **1. COUNTY ADMINISTRATION**

##### **A) ACTION REQUESTED/PURPOSE:**

Approve acceptance and donation of a FU47 Trophy Radiologic x-ray machine from Lorraine M. Golosow, M.D., with a total approximate value of \$1,500.00.

([#20110184](#)-COUNTY MANAGER)

##### **FUNDING SOURCE:**

N/A

##### **WHAT ACTION ACCOMPLISHES:**

The action allows the District 21 Medical Examiner's Office and Lee County to accept the donation of a FU47 Trophy Radiologic x-ray machine from Lorraine M. Golosow, M.D.

**MANAGEMENT RECOMMENDATION:**

Approve.

**PULLED FOR DISCUSSION**

After Commissioner Mann thanked Dr. Golosow for her donation, Commissioner Judah moved approval, seconded by Commissioner Manning, called and carried.

**RESOLUTION NO.11-03-30****B) ACTION REQUESTED/PURPOSE:**

Approve budget amendment resolution to allocate excess fund balance, appropriate budget for operational CIP & major maintenance and grant carryovers, and amend FY10/11 - 14/15 CIP accordingly. Also, approve transfers of funds from reserves and interfund transfers, if necessary, to cover carryover needs. ([#20110233](#)-COUNTY MANAGER)

**FUNDING SOURCE:**

Various based on fund balance adjustments and/or transfers from Reserves.

**WHAT ACTION ACCOMPLISHES:**

Adjusts budgeted fund balance to reflect preliminary actual balances for those funds for which a budget carryover is requested, and also provides budget to meet the carryover recommendations.

**MANAGEMENT RECOMMENDATION:**

Approve.

**PULLED FOR DISCUSSION**

Responding to Commissioner Mann's question, Assistant County Manager Pete Winton explained that the leftover funds were essentially a bookkeeping entry and did not require a public hearing. Commissioner Judah moved approval, seconded by Commissioner Manning, called and carried.

**RESOLUTION NO. 11-03-31****2. COMMUNITY DEVELOPMENT****A) ACTION REQUESTED/PURPOSE:**

Take the following actions with regard to SHIP (State Housing Initiatives Partnership) contracts:

- Extend the following contracts from March 31, 2011 to May 31, 2011:
  - [C-5219 with Lee BIA Builder's Care, Inc.](#)
  - [C-4736 with Lee County Housing Development Corporation \(LCHDC\)](#)
  - [C-4670 with LCHDC](#)
  - [C-5455 with Goodwill \(Southwest FL GWI Housing VIII, Inc.\)](#)
- Amend contract [C-3936 with LCHDC](#) to reduce it by \$40,000.00 from \$245,000.00 to \$205,000.00 and change the contract scope from the construction and/or acquisition/rehabilitation/resale of 6 houses for 6 low income households to 5 houses for 5 low income households.
- Amend contract [C-4670 with LCHDC](#) to reduce it by \$11,000.00 from \$267,023.82 to \$256,023.82.
- Execute a [Grant Award Agreement](#) for \$51,000.00 with Partnership-In-Housing, Inc., for the rehabilitation by May 31, 2011 of up to 36 farm-worker rental housing units for very low income households at Pueblo Bonito in Bonita Springs.

([#20110216](#)-COMMUNITY DEVELOPMENT)

**FUNDING SOURCE:**

SHIP Local Housing Assistance Funds.

**WHAT ACTION ACCOMPLISHES:**

Allows adaptation to current housing market conditions and allows the county to enter into a grant award agreement for the expenditure of 2008/2009 SHIP funds to rehabilitate affordable housing.

**MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Hall 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:

Approve, and authorize the Chair to execute, an [Amendment I to the Grant Award Agreement](#), thereby modifying the legal description of those lands encumbered under the terms of the Caloosahatchee Creeks Preserve Florida Community Trust Grant Award Agreement (FCT-01-031-FF1) between Lee County and Florida Communities Trust, dated February 14, 2003. Authorize payment of the cost of recording in the approximate amount of \$75.00, and the Division of County Lands to handle all documentation necessary to complete the transaction. ([#20110207](#)-COUNTY LANDS)

### FUNDING SOURCE:

Fund—Conservation 2020 Capital Improvement Fund; Program—Capital Project; Project: Conservation 20/20, Land Purchase.

### WHAT ACTION ACCOMPLISHES:

Removes ±2.45 acres from and incorporates ±12.48 acres into the operation of the Caloosahatchee Creeks Preserve Florida Community Trust Grant Award Agreement dated February 14, 2003.

### MANAGEMENT RECOMMENDATION:

Approve.

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

### B) ACTION REQUESTED/PURPOSE:

Approve, and authorize the Chair to execute, a [Revocable Temporary License to Lee County Electric Cooperative, Inc., \(LCEC\)](#) for the North Lee County Water Treatment Plant Wellfield Expansion Project No. 7602; and the [Easement instrument](#) upon completion of the electric facilities. Also, authorize payment of cost to record in the approximate amount of \$50.00, and the Division of County Lands to handle all documentation necessary to complete the transaction. ([#20110218](#)-COUNTY LANDS)

### FUNDING SOURCE:

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

### WHAT ACTION ACCOMPLISHES:

Conveys license/utility easement to LCEC for electric service to a North Lee County Water Treatment Plant Expansion Project well site (PW-14).

### 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:

Approve and execute a [Ground Lease Agreement](#) and [Memorandum of Agreement](#) with the Edison Mall Business Trust for a corner parcel of land at Edison Mall, which is 30,864 square feet. This lease is for an initial term of five years and an option to renew for an additional five year term. The annual amount of the lease is \$100.00 and Common Area Maintenance (CAM) is \$90,000.00 for Year 1. Subsequent years, the lease amount will remain the same however; the CAM will increase by 3% annually.

([#20110203](#)-TRANSIT)

### FUNDING SOURCE:

Funds have been budgeted.

### WHAT ACTION ACCOMPLISHES:

This lease will enable the County to construct and operate a passenger transfer facility at the Edison Mall to replace existing facilities that do not meet the core needs of the traveling public as per the Transit Development Plan.

### MANAGEMENT RECOMMENDATION:

Staff recommends execution of the Lease Agreement and the Memorandum of Agreement with the Edison Mall Business Trust.

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

## **8. NATURAL RESOURCES/ SOLID WASTE**

### **A) ACTION REQUESTED/PURPOSE:**

Approve expenditures exceeding the formal bid level of \$100,000.00 annually via Formal Bid No. B-09-09, Yard Waste Processing Services to BelCorp, Inc. (Contract #4729). The initial term of this contract was for 2 years through April 1, 2011 with the option of renewal for 2 additional 1-year periods. The estimated annual expenditure for the services (under the 2 additional renewal periods) is anticipated to be approximately \$175,000.00 per year. ([#20110208-SOLID WASTE](#))

### **FUNDING SOURCE:**

Solid Waste Systems, Ops, Disposal Facilities, Account OB 5340840100.503490.

### **WHAT ACTION ACCOMPLISHES:**

Allows the Solid Waste Division to continue with the yard waste processing contract services of BelCorp, Inc. through the fiscal year.

### **MANAGEMENT RECOMMENDATION:**

Approve.

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

## **9. PARKS AND RECREATION**

No requests received.

## **10. PUBLIC SAFETY**

No requests received.

## **11. PUBLIC WORKS ADMINISTRATION**

No requests received.

## **12. TRANSPORTATION**

### **A) ACTION REQUESTED/PURPOSE:**

Approve [revised SR 82 funding agreement with City of Fort Myers](#) (contained in the backup material to this item), which provides for the refund of the \$5 million loan previously provided by the County, less the funds necessary to cover the construction and CEI costs of an additional culvert as a wildlife crossing and the intersection and signalization work at the SR 82/Colonial intersection, plus a contingency (totaling \$1,461,623.00), such work to be done by the City's contractor as part of the SR 82, 6-lane widening project. Authorize the Chairman to execute the revised agreement; return the balance of the refunded dollars (\$3,538,377.00) to the General Fund undesignated reserves, and approve a Budget Amendment Resolution to recognize these funds.

([#20110230-TRANSPORTATION](#))

### **FUNDING SOURCE:**

The source of the original \$5 million loan was the \$10 million in General Fund Road Grant funds provided by the Board for road projects a few years ago.

### **WHAT ACTION ACCOMPLISHES:**

Allows for a refund of most of the loan funds provided by the County to the City of Fort Myers for the SR 82 widening project, which will help shore up County reserves in this tight budget era, while funding some critical additional improvements as part of the City's contract.

### **MANAGEMENT RECOMMENDATION:**

Approve.

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

[RESOLUTION NO. 11-03-32](#)

## **13. UTILITIES**

No requests received.

**14. COUNTY ATTORNEY**

No requests received.

**15. HEARING EXAMINER**

No requests received.

**16. CONSTITUTIONAL OFFICERS**

**A) ACTION REQUESTED/PURPOSE:**

Approve [disbursements](#). The check and wire registers can now be viewed on the Clerk's Website at WWW.LEECLERK.ORG by accessing the BoCC Minutes and Documents link. ([#20110224-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.

**B) 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 (contained in the backup material to this item). ([#20110225-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 to you 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.

**C) ACTION REQUESTED/PURPOSE:**

Approve the Minutes for the following meetings of the Board of County Commissioners held during the week of March 14 through March 18, 2011:

March 14, 2011 (Management & Planning) (March 14, 2011 (Special at Port)

March 15, 2011 (Regular)

([#20110231-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.

**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****A) ACTION REQUESTED/PURPOSE:**

Approve an amendment to the Veteran's Memorial Parkway Limited Access Resolution to add a connection point to the Royal Tee Golf Club, approximately 0.9 miles south of State Road 78 (Pine Island Road) at highway STA 643+50. ([#20110179](#)-TRANSPORTATION)

**FUNDING SOURCE:**

No funds required.

**WHAT ACTION ACCOMPLISHES:**

Approval of the additional connection point will enhance safety, improve connectivity, and preserve traffic capacity.

**MANAGEMENT RECOMMENDATION:**

Approve the amendment adding the connection point.

Commissioner Manning moved the item, seconded by Commissioner Judah for discussion. At the request of Commissioner Judah, Department of Transportation Deputy Director Paul W. Wingard further reviewed the item. Commissioner Hall recognized the attendees from Royal Tee Golf Club. The motion was called and carried.

[RESOLUTION NO.11-03-33](#)

COMMISSIONER MANNING LEFT THE MEETING BRIEFLY AND RETURNED AFTER ADMINISTRATIVE AGENDA ITEM 14(A).

**13. UTILITIES**

No requests received.

**14. COUNTY ATTORNEY**

**A) ACTION REQUESTED/PURPOSE:**

Approve [transfer of funds](#) from Unincorporated MSTU Fund in the amount of \$500,000.00 to defend litigation resulting from the Board's zoning decisions and adoption of the Comprehensive Plan Amendment related to Southeast Lee County DR/GR.

(#20110215-COUNTY ATTORNEY)

**FUNDING SOURCE:**

Unincorporated MSTU Fund - Accounts: GC5190315500.503120-Expert Witness-\$425,000.00; and GC5190315500.503190-Outside Counsel-\$75,000.00.

**WHAT ACTION ACCOMPLISHES:**

Provides the County Attorney's Office and the Department of Community Development with funding to defend DR/GR related litigation.

**MANAGEMENT RECOMMENDATION:**

Approve the authorization of the requested funds from the Unincorporated MSTU (GC5190315500.503120-Expert Witness) and (GC5190315500.503190-Outside Counsel).

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

**15. HEARING EXAMINER**

No requests received.

**16. CONSTITUTIONAL OFFICERS**

No requests received.

**17. PORT AUTHORITY AND OTHER GOVERNING BOARDS**

No requests received.

**WALK-ON ITEM NO. 1**

**12. TRANSPORTATION**

**1. ACTION REQUESTED/PURPOSE:**

Approve, and authorize the Chair to sign, the Florida Wildflower Foundation Resolution. Also, authorize Department of Transportation (DOT) Director or designee to sign grant agreement.

(#20110250-TRANSPORTATION)

**FUNDING SOURCE:**

Grant funds – Roadway Landscaping.

**WHAT ACTION ACCOMPLISHES:**

Allows Lee County to submit a grant application and, if awarded a grant, enter into a grant agreement with The Florida Wildflower Foundation Grant Program to plant wildflowers on County roadways or State roadways within Lee County. The grant awards are in form of \$500.00 certificates to purchase native wildflowers, plus a match of \$500.00 pledged by local Coccoloba Chapter of the Florida Native Plant Society.

**MANAGEMENT RECOMMENDATION:**

Approve.

**REASON FOR WALK ON:**

The grant period begins on March 25, 2011, so it is necessary to submit the grant application as soon as possible.

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

[RESOLUTION NO. 11-03-34](#)

**WALK-ON ITEM NO. 1 (CEREMONIAL RESOLUTION) WAS PRESENTED DURING THE PRESENTATION PORTION OF THE MEETING.**

**COMMISSIONER ITEMS**

**CENSUS PROCESS AND TIMELINE** – Responding to Commissioner Bigelow’s question, Assistant County Manager Holly Schwartz indicated that Community Development Director Mary Gibbs and the Department of Community Development (DCD) were putting together a timeline for the Federal, State and County Commission Districts; to be brought to the Board.

**BIODIESEL FEDERAL GRANT** – In response to Commissioner Bigelow’s request for an update on the disbursement of the biodiesel federal grant funds, County Manager Karen Hawes indicated that the ARRA funds were entered into the computer database and updates could be provided. Assistant County Manager Doug Meurer agreed to refer the item to Solid Waste Director Lindsey Sampson and Transportation Deputy Director Paul Wingard. Commissioner Judah provided a summary of the project’s progress.

**SPREADER SWALE** – Commissioner Judah requested a status report on the Florida Department of Environmental Protection’s (FDEP) plan to proceed with the Spreader Swale as an MS4 strong water discharge receiving water body, which Lee County had objected to, and asked if an opportunity was available to appeal such decision. Assistant County Manager Doug Meurer offered to confer with Natural Resources Department Director Roland Ottolini to provide a timeline on this issue.

**OAK TREE** – At the request of Commissioner Judah, Assistant County Manager Holly Schwartz noted that a blue sheet was anticipated within the next two weeks, and that refurbishing of plant beds with native plantings were being considered. Commissioner Mann stated that the County’s arborist suggested placement for another tree would be off to the right toward Broadway, and noted that a donation of a mature tree that would not compete nor affect the Bunyan tree. Commissioner Hall noted the county’s commitment to native plants.

**ARTISTS EXHIBIT** – Commissioner Hall invited everyone to visit the display of oil paintings by Fort Myers teacher and artist Kathryn McMahon in her office.

**LEGISLATIVE SESSION** – Commissioner Hall reported the trip to Tallahassee in which she and Commissioner Mann, County Manager Karen Hawes, and Assistant County Manager Holly Schwartz attended the Legislative Session. Two items of interest were the Internet tax and the Senate Energy Bill draft. She thanked County lobbyists Sarah Blakely and Keith Arnold for keeping the Board updated and on schedule.

**NETBOOK ACQUISITION** – Commissioner Hall suggested the Commissioners use their existing laptops instead of purchasing the NetBooks. County Manager Karen Hawes and Assistant County Manager Pete Winton indicated they would review this issue and report back to the Board.

**FERTILIZER ORDINANCE** – Commissioner Mann further reported on the trip to Tallahassee, and noted that the consensus of the delegation was not in favor of overriding the authority of the County’s Ordinance.

**FORT MYERS BEACH** – Commissioner Mann reported that he had sent a note to Fort Myers Beach Mayor Larry Kiker informing that there would be no transfer of assets and that there has been a decision on the Seafarer’s building demolition. The Council has requested a 90-day extension on the demolition to allow further information to be brought to the Board.

**COMMITTEE APPOINTMENTS**

Commissioner Bigelow moved to appoint James A. Pockington to the **TOWN & RIVER IMPROVEMENT UNIT**, seconded by Commissioner Judah, called and carried.

**COUNTY MANAGER ITEMS**

County Manager Karen Hawes had no items to be discussed.

**COUNTY ATTORNEY ITEMS**

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

The Chairman adjourned the meeting at 10:20 a.m.

ATTEST:  
CHARLIE GREEN, CLERK

\_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
[Chairman, Lee County Commission](#)