

MARCH 07, 2023

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

Brian Hamman, Chairman  
 Mike Greenwell, Vice-Chairman  
 Cecil Pendergrass  
 Ray Sandelli  
 Kevin Ruane

The Chairman called the meeting to order at 9:32 a.m. The Invocation was given by Pastor Enrique Rosario, Chaplin – Pretrial Services, Lee County Justice Center, followed by the Pledge of Allegiance.

## CEREMONIAL PRESENTATIONS

### 1. Pet of the Month – Commissioner Pendergrass

Commissioner Pendergrass introduced Domestic Animal Services Public Information Specialist, Karen Fordiani and Domestic Animal Services Director, Pablo Adorno who introduced Buzz, a mixed breed canine who is currently available for adoption. March is “Mutt Madness” at Lee County Domestic Animal Services and everyone is a winner when a new pet gets adopted. Adoption fees will be reduced through March 31, 2023. Adult dogs will be \$30 with an approved application. To add to the adoption experience, each adopted pet will go home with a toy or treat. Also, this March Lee County Domestic Animal Services and Lee County Parks and Recreation will host their annual “Doggie Field Day” on Thursday, March 30, 2023 from 10:00 am – 1:00 pm at Estero Park. There is a \$5.00 donation fee that will go directly to the Animal Care Trust Fund (ACTF) which was established in 2002 to provide specialized care and services to stray animals here in Lee County. For more information you can visit <https://www.leegov.com/animalservices/Events> or check out their Facebook page. Commissioner Pendergrass asked Ms. Fordiani and Mr. Adorno to have their Staff come up so he could recognize some of the great work they have done over the last six (6) months following Hurricane Ian. He stated Lee County Domestic Animal Services has been named outstanding agency of the year by the Florida Animal Control Association (FACA). Commissioner Pendergrass thanked Staff for all their time and efforts.

### 2. Presentation of The First Lee County Clerk of Courts – Clerk of Courts Kevin Karnes

Clerk of the Court & Comptroller Kevin C. Karnes introduced Clerk of Court Historical Record Specialist, Joanne Miller who is currently celebrating forty-one (41) years of service with the Clerk of Courts, and has a long history of collaborating with authors on various historical issues in relation to Lee County. A member of the Lee County Historical Society, Ms. Miller recently assisted an author by the name of Cesar Alejandro Becerra who is currently writing a book on Medford Kellum the founder of Kellum Farms and Kellum Estates on McGregor Boulevard. Mr. Kellum also happens to be a relative of Lee County’s First Clerk of Court, James Williamson Bain by marriage. Through her hard work and research, Ms. Miller was put in contact with a distant relative of Clerk Bain’s who was able to produce a photo of the late Mr. Bain. This is the first known official portrait of Clerk Bain in Lee County records. Clerk Karnes then congratulated Ms. Miller on her forty-one (41) years of dedicated service with the Lee County Clerk’s office.

## RECAP/ANNOUNCEMENTS

Referring to the [Recap](#) Agenda of March 07, 2023, the Chairman announced that:

#### Revisions and Corrections:

- The County Attorney’s Office request the following revisions to the 9:30AM Public Hearing No. 1:
  - Case No. VAC2022-00014. Conduct a public hearing to adopt a resolution approving vacation of the public interest in an approximately 259 SF portion of a public utility easement lying in Lot 11, Block 49 Unit 5 of that certain plat of South ½ Section 28, Township 44 South, Range 26 East, a Subdivision of Lehigh Acres as recorded in Plat Book 15, Page 78, of the Public Records of Lee County, FL. (Strap # 28-44-26-05-00049.0110).
  - Accept conveyance via Quit-Claim Deed for a portion of the property located at 4500 Lee Boulevard in Lehigh Acres.

**Public Comment:** The Chairman called for public comment and there were no speakers.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Sandelli, called and carried.

#### Commissioners’ Items:

- Long Term Recovery Task Force – Commissioner Ruane

#### County Manager Items:

- Burn Ban
- Ballfield Lights Discussion

## PUBLIC COMMENT ON AGENDA ITEMS

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

Commissioner Hamman – None  
 Commissioner Greenwell – None  
 Commissioner Ruane – None  
 Commissioner Pendergrass – C-3  
 Commissioner Sandelli – None

The Chairman called for public comment on any Consent Agenda items and there were two (2) speakers.

Marsha Ellis – [C-5](#) and [C-23](#)  
 Jason Garrison – [C-11](#)

The Chairman requested a motion to approve the Consent Agenda items and Commissioner Ruane so moved, seconded by Commissioner Greenwell called and carried.

## CONSENT AGENDA

### CLERK OF COURTS

#### 1. Approve and Record County [Disbursements](#) per Florida Law

**Item Summary:** Chapter 136.06(1), Florida Statute requires that all County disbursements be recorded in the Minutes of the Board. This is for the check and wire registers viewable on the Clerk's website.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

#### 2. Present Monthly Investment Summary for January 2023

**Item Summary:** This is a monthly information report from the Clerk of Court's Office that provides interim information on investments.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

### COMMUNITY DEVELOPMENT

PULLED FOR DISCUSSION

#### 3. Adopt Resolution Allowing Reconstruction of Boca Grande Communication Tower Facility

**Item Summary:** Approval of this resolution will permit the reconstruction of a wireless communications facility that includes a 160 foot antenna and other structures located at 390 East Railroad Avenue, Boca Grande. During Hurricane Ian, winds damaged the facility, causing it to collapse. Due to height limitations for Gasparilla Island contained in the Land Development Code, reconstructing a new tower at the same height requires Board approval. Staff recommends that the Board approve this item to maintain consistent, reliable telecommunication services for residents of Boca Grande.

**Board Discussion:** Commissioner Pendergrass pulled the item stating how important it is to have cell service and that he is aware of the current issues. Commissioner Pendergrass stated that residents have reached out to him concerning the issues and are asking for a small group to meet with County Staff, the Vertical Bridge Committee, and the Community Cell Tower Committee. Commissioner Pendergrass stated the group wants to be involved with the design of the Communication Tower Facility. Deputy County Manager Dave Harner confirmed that Staff has been meeting with the group and will continue to do so regarding this item. Commissioner Hamman asked Staff to confirm that the resolution being passed accomplishes the ability to continue to move forward regarding the tower height only and not approval of the site plan. County Attorney Richard Wm. Wesch confirmed the item is a finding of public necessity to allow for compliance with the special rules that govern development on the island. Because this is a replacement tower, Staff is obligated to confirm the finding of public necessity so it may move forward through the permitting process. Attorney Wesch confirmed the Board is not approving any specific site design by virtue of today's action, merely the finding of public necessity.

**Public Comment:** The Chairman called for public comment and there were no speakers.

**Vote:** Commissioner Pendergrass moved approval, seconded by Commissioner Ruane, called and carried.

[RESOLUTION NO. 23-03-02](#)

### COUNTY ATTORNEY

#### 4. Confirm and Ratify Resolutions Extending the State of Local Emergency

**Item Summary:** Confirm and ratify State of Local Emergency Resolution Numbers:

- [23-02-15](#) – Twenty-Second Extension of State of Local Emergency (Issued 2/27/2023)
- [23-03-01](#) – Twenty-Third Extension of State of Local Emergency (Issued 3/06/2023)

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**COUNTY LANDS****5. Adopt Resolution of Necessity for Alico Road Connector Phase I Widening**

**Item Summary:** Authorizes staff to pursue, either voluntarily or through the use of eminent domain, the acquisition of Parcels 100, 101, 102, 103, 104, 105, 116, 116-SE, 117, 117-TCE, 118, 118-SE, and 119-SE/DE of the Alico Road Connector Phase I Widening Project No. 9245. The construction of this widening project is anticipated to commence in Fiscal Year 2023/24.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

[RESOLUTION NO. 23-03-03](#), [RESOLUTION NO. 23-03-04](#), [RESOLUTION NO. 23-03-05](#), [RESOLUTION NO. 23-03-06](#), [RESOLUTION NO. 23-03-07](#), [RESOLUTION NO. 23-03-08](#), [RESOLUTION NO. 23-03-09](#), [RESOLUTION NO. 23-03-10](#), [RESOLUTION NO. 23-03-11](#), and [RESOLUTION NO. 23-03-12](#)

**6. Reject Offer for Purchase of County-Owned Surplus Land at 363 Pondella Road**

**Item Summary:** Rejects a bid submitted by Weaver Professional Services, Inc. in the amount of \$5,101 for the purchase of County-owned surplus property at 363 Pondella Road, containing 8,342+/- square feet (approximately 0.19 acre). A market analysis indicates an estimated value of approximately \$25,000.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**7. Accept Offer for [Purchase](#) of County-Owned Surplus Land at 2534 Collins Street**

**Item Summary:** Accepts a bid submitted by Investment Guys LLC in the amount of [\\$22,000](#) for the purchase of County-owned surplus property at 2534 Collins Street, Fort Myers, containing 5,900+/- square feet (approximately 0.14 acre).

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**8. Approve [Land Donation Agreement](#) for Remnant Parcel on Lakewood Boulevard**

**Item Summary:** Accepts the donation of vacant land, consisting of 0.10 acre adjoining Lakewood Boulevard, to facilitate Lee County Department of Transportation's operation of an existing stormwater drainage system in that area

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**9. Accept Donation of Right-of-Way in East Lee County**

**Item Summary:** Accepts donation of a [Grant of Road Right of Way Easement and Agreement](#) as part of a zoning requirement (Resolution Number Z-21-002) and Limited Development Order 2022-00270. This donation will accommodate right of way improvements for the residential developments of Oakview and Buckingham 345, located approximately 1.5 miles south of the intersection of Buckingham Road and State Road 80 in East Lee County.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**HUMAN SERVICES****10. Approve Submission of 2023 [Grant Application](#) for the Benefit of Homeless Individuals**

**Item Summary:** Authorizes staff to submit an application to the Substance Abuse and Mental Health Services Administration (SAMHSA) for the 2023 Grants for the Benefit of Homeless Individuals grant, in partnership with Centerstone of Florida, Inc., for up to \$500,000 per year in federal funding. If awarded, approximately 150 individuals with behavioral health conditions who are experiencing homelessness will be assisted each year. The grant is renewable for up to five years, depending on federal appropriations and performance. If awarded, funds will be received during FY 2023-2028

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**PARKS AND RECREATION****11. Award [Contract](#) for Kayak Rental Concessions at San Carlos Bay Bunche Beach Preserve**

**Item Summary:** Award a competitively solicited contract to Kayak Excursions, Inc. for Bunche Beach Kayak Concessions. The vendor will oversee the day-to-day operations of kayak rentals for an initial period of five years. The contract can be renewed up to five years upon agreement of both parties, as approved by the County and Licensee. The monthly revenue collected will be in the amount of \$2,000.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**12. Approve CPA for Exotic Plant Control in Alva Scrub Preserve**

**Item Summary:** Approves a County Project Authorization (CPA) to the contract with EarthBalance Corporation for environmental maintenance to provide exotic vegetation treatment of 380 acres in Alva Scrub Preserve in the amount of \$124,679.00. The project includes exotic plant control, native plant installation for restoration and habitat restoration. Funding is included in the budget.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**13. Approve CPA for Exotic Plant Control in Bob Janes Preserve**

**Item Summary:** Approves a County Project Authorization (CPA) to the contract with EarthBalance Corporation for environmental maintenance to provide exotic vegetation treatment of 617 acres in Bob Janes Preserve in the amount of \$131,980.00. The project includes exotic plant control, native plant installation for restoration and habitat restoration. Funding is included in the budget.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**PROCUREMENT MANAGEMENT**

**14. Award Contract for Construction Manager at Risk - Countywide**

**Item Summary:** Approves the award of the annual contracts for Construction Manager at Risk (CMAR) services to a pool of fourteen firms for management of construction projects with a total cost of less than \$4,000,000 per project, for an initial term of three years, with the option to renew for up to three additional years. The awarded pool of vendors includes the following: [AIM Construction Contracting, LLC.](#), [Andrew Sitework, LLC.](#), [Brooks & Freund, LLC.](#), [Chris-Tel Company of Southwest Florida, Inc. dba Chris-Tel Construction](#), [Gilbane Building Company](#), [Gulfpoint Construction Company, Inc.](#), [Manhattan Construction Company](#), [O-A-K/Florida, Inc. dba Owen-Ames-Kimball Company](#), [Seagate Development Group](#), [Stevens Construction, Inc.](#), [Stultz, Inc.](#), [Target Builders Construction Management, Inc.](#), [Wharton-Smith, Inc.](#), and [Wright Construction Group, Inc.](#) Individual projects shall be awarded to firms based on experience, availability, and licenses in accordance with Florida Statute. Individual projects with a total cost over \$100,000 will be brought back to the Board for approval. Total expenditures for these services during Fiscal Year 2021-2022 were \$5,772,362.02.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**15. Award Contract for Intrabuilding Voice and Data Cabling – Countywide**

**Item Summary:** Awards a competitively solicited contract to Aztek Communications of South Florida, Inc. for intrabuilding voice and data cabling and installation on an as needed basis, for an initial term of three years, as approved in the departments' annual adopted budget. The contract can be renewed for up to three additional years, upon the agreement of both parties. Individual purchases in excess of \$100,000.00 will be presented to the Board for approval. The total expenditures for these services for Fiscal Year 2021-2022 were \$47,823.05.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**16. Award Contract for Custodial Services for South Zone - Countywide**

**Item Summary:** Awards a contract to [American Facility Services, Inc.](#) and [United States Service Industries, Inc.](#) for use, on an as needed basis, of custodial services for an initial three-year period with an option to renew the contracts up to three additional years. Departments utilizing these services include Parks and Recreation, Utilities, Public Safety, Libraries, DOT Tolls, and Solid Waste. Total expenditures under this contract during Fiscal Year 2021-2022 were approximately \$517,137.45.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**17. Award Contract for Professional Testing Services - Countywide**

**Item Summary:** Awards competitively solicited contracts for professional testing services for construction projects to [ECS Florida, LLC](#) and [GFA International, Inc. dba Universal Engineering Sciences](#) for an initial term of one-year with the option to renew for three additional one-year terms. Total expenditures for these services during Fiscal Year 2021-2022 were approximately \$82,381.36. On December 6, 2022, three vendor agreements were approved for Professional Testing Services - Countywide. Board approval will authorize the two remaining contracts negotiated by staff to provide these services.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**18. Approve Amendment for Temporary Personnel Services - Countywide**

**Item Summary:** Approves a contract amendment with Abacus Corporation for temporary personnel services. The amendment provides for the inclusion of a "Lee County Utilities Customer Service Representative" position and its associated costs to the remaining contract years. Expenditures will be on an as needed basis as approved in the departments' annual adopted budgets.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**19. Approve Contract Amendment for Custodial Services - North Zone**

**Item Summary:** Approves a contract amendment with American Facility Services, Inc., under the solicitation for Custodial Services for North Zone Lee County. The amendment will update Exhibit A – Scope of Work and Exhibit B – Fee Schedule to include the Sheriff's Substation – Gulf District, Pine Island to provide custodial service at the location. The monthly cost for the additional location is \$325.00, for a maximum location cost of \$3,900.00 for the life of the contract. Expenditures would be on an as-needed basis, as approved in the departments' annual adopted budget.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

### **PUBLIC SAFETY**

#### **20. Approve a [Contract Amendment](#) and Renewal for the Purchase of EMS Uniforms**

**Item Summary:** Approves a contract amendment and renewal with Galls, LLC, under the solicitation for Annual – Uniforms for Emergency Medical Services, to add, remove, and replace certain uniform items and adjust pricing in Exhibit B, Fee Schedule of the agreement. The amendment may increase the contract amount. Total expenditures during Fiscal Year 2020-2021 were \$142,063.67. This increase coincides with the second of three one-year renewals on the 2019 agreement. Public Safety and Procurement Management will be exploring other procurement options, including rebidding the contract, to ensure the pricing remains competitive.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

### **SHERIFF**

#### **21. Approve Transfer from Law Enforcement Trust Funds Reserves**

**Item Summary:** Proceeds from the collection of confiscated property are used on crime prevention and educational programs. In FY22-23, \$950,000 was collected in the [Law Enforcement Trust Fund #10500](#). The Lee County Sheriff's Office is requesting a \$950,000 transfer from fund 10500 reserves of which \$237,500 will be donated to non-profit organizations that enhance the Lee County Sheriff's goals and objectives. The Lee County Sheriff's Office is requesting \$35,000 from [Law Enforcement Trust-Crime Prevention Fines fund #10505](#) reserves to purchase Neighborhood Watch signs, Crime Stoppers Signs and crime prevention equipment for Safe Neighborhood Programs in FY22-23. The transfers will leave a reserve of \$20,911.63 in fund 10500 and \$202,590.66 in fund 10505.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

### **SOLID WASTE**

#### **22. Approve [Piggyback](#) for Fleet Tracking System License and Service Agreement**

**Item Summary:** Equips 76 vehicles with Samsara fleet tracking technology to reduce operating costs and accidents through real-time tracking of a vehicle's mechanical and maintenance status while also analyzing the surroundings and movement of the vehicle. A free demonstration period showed the system's onboard computing and outward-facing camera improved driver feedback, protected drivers from 3rd-party accident claims and provided enhanced maintenance data. The program costs \$79,358.80 for the first year and \$77,128.80 for two additional years.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

### **UTILITIES**

#### **23. Award Professional Services [Contract](#) for Southeast County Force Main Improvements**

**Item Summary:** Awards Tetra Tech a professional services contract to design and permit approximately 45,000 linear feet of force main intended to divert wastewater flow to a new Southeast Water Reclamation Facility. The Board of County Commissioners approved the project funding as part of the FY23 Utilities Capital Improvement Program. The project's total estimated cost is \$29,500,000 and construction is anticipated to start in the Spring of 2024.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

#### **24. Award Annual [Contract](#) for Polyacrylamide Polymers**

**Item Summary:** Awards competitively bid contract for the purchase of Polyacrylamide polymers (liquid and dry) to Polydyne, Inc. The initial contract is for a three-year period, with an option to renew for up to three additional years. Polyacrylamide polymers are used in the water and wastewater treatment processes to aid in the settling of solids and to improve the clarity of the water. The purchase of polyacrylamide polymers is budgeted annually within the Utilities Operating Budget. Total expenditures for the prior 12 month-period were \$241,841.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

#### **25. Approve [Amendment to Annual Contract](#) for Odor Control and Corrosion Service**

**Item Summary:** Approves a price increase requested by Evoqua Water Technologies, LLC, for the renewal of the annual contract to minimize the adverse effects on the County's wastewater infrastructure and address nuisance odors in the system on an as-needed basis through May 13, 2024. Evoqua submitted the required documentation to Procurement Management to substantiate the average 24.41% price increase due to raw material increases, supply chain issues, labor shortages, and increased energy cost. The Producer Price Index (PPI) for Basic Inorganic Chemical Manufacturing, which is the most relevant index comparable to this contract shows an increase of 21.5% for 2022. The total previous twelve month expenditures with Evoqua Water Technologies was \$1,323,644.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**26. Approve Contract Change Order for Hancock Bridge Pkwy. Sidewalk Improvements**

**Item Summary:** Approves Change Order No. 2 to the design contract with Cardno, Inc. to prepare bid/construction plans jointly with Lee County Department of Transportation (DOT) for the Hancock Bridge Sidewalk Improvements Project. The change order also increases the contract time by 365 days (for a total of 1,385 days) and provides for additional environmental, surveying, permitting, utility, and post-design services. The revised total of the contract is \$551,504.10. Funding for this project is included in the current budget, with construction anticipated to begin in spring 2024 with a total estimated project cost of \$3.2 million.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**27. Approve Contract Change Order for Ethernet Network Connection Services for Utilities**

**Item Summary:** Approves Change Order No.1 to extend the Sole Source contract with Lumen for 6 months while a new solicitation for Ethernet Services is advertised and procured. Lumen Technologies provides a private fiber-optic network linking all Utilities Facilities, separating the business and controls networks and ensures compliance with Homeland Security directives and recommendations concerning the cyber security of drinking water and treatment facilities. Ethernet Services are budgeted annually within the Utilities operating budget.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**28. Accept [Grant Funds](#) from the Florida Department of Environmental Protection**

**Item Summary:** Accepts an additional \$31,956.35 from the Florida Department of Environmental Protection (FDEP) Small Community Wastewater Facility Program for the Fiesta Village Sand and Grit Removal Project to help cover additional project costs. In October 2022, the Board accepted \$166,906.25 in grant funds for this project (50% of total project cost). Completion of the project will restore the capacity of the Fiesta Water Reclamation Facility, improve treatment, and increase the facility efficiency.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

[RESOLUTION NO. 23-03-13](#)

## PUBLIC HEARING – 9:30 AM

PER THE RECAP AGENDA, THE FOLLOWING REVISIONS/CORRECTIONS WERE ANNOUNCED FOR PUBLIC HEARING – 9:30 AM PUBLIC HEARING ITEM NO. 1:

REVISED MOTION:

- Conduct a public hearing to adopt a resolution approving vacation of the public interest in an approximately 259 SF portion of a public utility easement lying in Lot 11, Block 49 Unit 5 of that certain plat of South ½ Section 28, Township 44 South, Range 26 East, a Subdivision of Lehigh Acres as recorded in Plat Book 15, Page 78, of the Public Records of Lee County, Florida. (Strap # 28-44-26-05-00049.0110).
- Accept conveyance via [Quit-Claim Deed](#) for a portion of the property located at 4500 Lee Boulevard in Lehigh Acres.

**1. Approve Petition to Vacate at 4500 Lee Boulevard, Lehigh Acres**

**Item Summary:** Extinguishes the public interest in a portion of the unimproved public utility easement located along the southern and eastern boundaries of the platted lot at 4500 Lee Boulevard in Lehigh Acres. This action will remove encumbrances so the portion of property may be conveyed to the County for right-of-way purposes. Florida Governmental Utility Authority (FGUA) currently has facilities located within the easement area and is requesting that the vacation and grant of right-of-way be a simultaneous transaction in order to ensure continuity of services.

**County Attorney:** Assistant County Attorney, David Halverson approved and submitted the [Affidavit of Publication](#) for entry into the record and summarized the request stating Staff is requesting that the Board except the conveyance of a portion of the property by a Quit Claim Deed. He stated there were no objections to the requested vacation.

**Public Comment:** The Chairman called for public comment and there were no speakers.

**Vote:** Commissioner Pendergrass moved approval of the revised motion requested by Staff, seconded by Commissioner Ruane, called and carried.

[RESOLUTION NO. 23-03-14](#)

## COMMISSIONER ITEMS

*Commissioner Pendergrass*

**1. Discuss Amendment to the Land Development Code (LDC) to Allow Drive-Thru's for Restaurants in the Light Industrial Zoning Category.**

Commissioner Pendergrass requested Board approval to direct Staff to amend the Land Development Code (LDC) to allow drive-thru's as permitted use in conjunction with Group Two (2) restaurants in the

Light Industrial (IL) Zoning District. This will allow drive-thru's as a permitted use in conjunction with the restaurant which is already permitted as the use of an IL Zoning District. Commissioner Hamman inquired if this item would require a motion to direct Staff to prepare the item and bring it back on a future agenda. County Attorney Richard Wm. Wesch agreed there would need to be a motion to direct Staff to study the issue and bring it back for further consideration through the public hearing process.

**Public Comment:** The Chairman called for public comment and there were no speakers.

**Vote:** Commissioner Pendergrass moved approval of the revised motion requested by Staff, seconded by Commissioner Greenwell, called and carried.

*Commissioner Ruane*

**1. Long Term Recovery Task Force:**

Commissioner Ruane provided the Board with a recap from the Monday, February 27, 2023 meeting of the Long Term Recovery Task Force. He stated that one of the first chores was to fill all of the branches. He said elections were held and all positions were filled. He went on to read the names from the Recovery Task Force Nomination Branch Members.

**Public Comment:** The Chairman called for public comment and there were no speakers.

**Vote:** Commissioner Ruane moved approval of the revised motion requested by Staff, seconded by Commissioner Sandelli, called and carried.

## COMMISSIONER APPOINTMENTS

**Commissioner Greenwell:**

Moved approval to:

- Appoint Dawn Russell to the Local Planning Agency
- Appoint Natalie Collington to the Community Action Agency
- Appoint Thomas Morgado to the Parks & Recreation Services Committee

**Vote:** Commissioner Pendergrass seconded and the motion was called and carried.

**Commissioner Pendergrass:**

Moved approval to:

- Appoint Taylor Brown to the Well Construction Committee
- Appoint Marciela Morado to the Community Action Agency/Neighborhood District Committee

**Vote:** Commissioner Ruane seconded and the motion was called and carried.

[RESOLUTION NO. 23-03-19](#) - Taylor Brown (Well Construction Committee)

**Commissioner Sandelli:**

Moved approval to:

- Reappoint Brian Burgess to the Anchorage Way/Intracoastal O&M MSBU Committee
- Reappoint Mark Lindsey to the Anchorage Way/Intracoastal O&M MSBU Committee
- Reappoint Roy Hendry to the Anchorage Way/Intracoastal O&M MSBU Committee
- Reappoint Kevin Shimp to the Anchorage Way/Intracoastal O&M MSBU Committee

**Vote:** Commissioner Ruane seconded and the motion was called and carried.

**Commissioner Ruane:**

Moved approval to:

- Appoint Linda M. Blodgett to the Cherry/Blueberry Improvement District Committee
- Reappoint Bill Caldwell to the Boca Grande Historic Preservation Board
- Reappoint Susan Weir to the Cherry/Blueberry Improvement District Committee
- Reappoint Thomas Tomich to the Waterways Advisory Committee
- Appoint Dana Minning to the Old Pelican Bay Channel/Canal O&M MSBU Committee

**Vote:** Commissioner Sandelli seconded and the motion was called and carried.

## COUNTY MANAGER ITEMS

**1. Burn Ban Discussion**

Assistant County Manager Christine Brady stated the Public Safety Staff continues to work with the Fire Chiefs Association and the Florida Forest Service to monitor drought conditions. She stated the County is approaching the Keetch Byram Drought Index otherwise known as the KBDI and anticipates the County will meet conditions set forth in the Burn Ban Ordinance before the next Board meeting. Staff is seeking the Board's approval to allow the Chairman to execute the Burn Ban once those conditions have been met. County Attorney Richard Wm. Wesch stated the action for this item is to delegate to the Chair the authority to sign the State of Local Emergency (SOLE) and the Burn Ban, once the conditions have been

met. As a result, there would be no further action needed by the Board to allow the Chairman to execute the documents on behalf of the County.

**Public Comment:** The Chairman called for public comment and there was [one \(1\) speaker](#).

**Vote:** Commissioner Pendergrass moved approval, seconded by Commissioner Greenwell, called and carried.  
[RESOLUTION NO. 23-03-18](#)

## 2. Ballfield Lights Discussion

Deputy County Manager Dave Harner reviewed a [detailed slide](#) with the updated information on each park and complex. He stated that Staff had been out to evaluate all the parks and complexes and none of them met the required foot candle level requirements. Mr. Harner stated the Illuminating Engineering Society sets the standard for the average maintained foot candle for appliances such as ballfields which is what the County follows as well as Major League and College baseball teams. He stated that Staff visited the individual parks and complexes to evaluate any and all issues for any missing components, not just the foot candle levels. An independent company is coming out to give an assessment of the fields at the parks and complexes and should have their preliminary report turned in by the end of the week and all reports by the end of the month listing the assessed damages and what materials will be needed and potentially the associated cost for those items. Mr. Harner stated it is Staff's intention to bring that information back to the Board at the end of the month in order to give options beyond waiting for the Federal Emergency Management Agency (FEMA) approval for reimbursement.

Mr. Harner went on to say the Rex Sox stadium sustained no damage to their facility and were able to use their lights to play night games because Major League Baseball (MLB) is built to a different standard. There are requirements for MLB that have to be met. However, the Twins stadium did sustain damage and as a result they have been unable to play any night games. The County has looked into bringing in temporary lighting. However, there are only enough lights for two (2) fields which would not be fair to the remaining parks and complexes. County Manager Roger Desjarlais assured the public that the County is in no way "shortchanging" Youth Sports. He stated that he understood the frustration about not being able to use the fields, but it simply is not true. Mr. Desjarlais stated the Board invests millions of dollars every year on Youth Sports because it is considered a high priority. Commissioner Pendergrass explained that if the County moved forward with completing the repairs without the approval of FEMA, the expense would then be passed on to the residents of Lee County as FEMA would not pay for those repairs. Mr. Harner shared that the Lee County School District has taken it upon themselves to make some of the repairs at a risk of not being reimbursed by FEMA.

There was discussion about allowing teams to have players sign a waiver and County Attorney Richard Wm. Wesch stated his office has not changed the recommendation of not allowing the execution of waivers. Attorney Wesch stated that based on additional work his office has done over the past two (2) weeks, which includes but is not limited to, a lighting analysis that found the acceptable standards were not being met. With that being said, his office is even more concrete than it was two (2) weeks ago on not executing waivers and if done so, they would fail under the Florida law given the fact that there is now absolute knowledge that the lighting standards do not meet acceptable industry standards.

Commissioner Greenwell stated there will be more in-house meetings on this subject in order to gauge what could have been done better and to also be better prepared if it happens again. He stated that he wants this moved forward as soon as possible, even if it means the County could potentially risk non-reimbursement. Commissioner Hamman said that he felt the precedent was set when the groups were allowed to play after the hurricane with the lights in their current condition. Commissioner Hamman said he feels the parks should be opened to allow the players to practice. Attorney Wesch stated that perhaps the Board direction could be tempered with play being allowed so long as the illumination standards that are generalized as the industry standard are met. Attorney Wesch said perhaps with the combination of daylight savings time that begins this Sunday, March 12, 2023 along with the current lights would suffice to meet those standards and he would feel comfortable making that recommendation.

Commissioner Ruane suggested the lights be turned on for football and soccer only starting on Sunday, March 12, 2023 which is the beginning of daylight savings time. The lights will be turned on and it will be the coach's responsibility to have the team off the field by 8:30 p.m. at the latest.

**Vote:** Commissioner Ruane moved approval, seconded by Commissioner Greenwell, called and carried.

**Public Comment:** The Chairman called for public comment and there were [twelve \(12\) speakers](#) and [six \(6\) eComments](#).

## COUNTY ATTORNEY ITEMS

County Attorney Richard Wm. Wesch had no additional items to discuss.

## PUBLIC PRESENTATION OF MATTERS BY CITIZENS



The Chairman called for presentation of matters by citizens, there were [five \(5\) speakers](#) and [two \(2\) eComments](#).

The Chairman adjourned the meeting at 11:05 a.m.

ATTEST:  
KEVIN C. KARNES, CLERK

By: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Chairman, Lee County Commission