

JANUARY 4, 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
- A. Brian Bigelow

The Chairman called the meeting to order at 9:30. The Invocation was given by the Reverend Joseph Gabriel, of the Full Gospel Assembly, followed by the Pledge of Allegiance to the Flag.

**PRESENTATIONS**

Commissioner Judah read and presented a [Ceremonial Resolution](#) recognizing Peyton Hornung for her contributions to a better quality of life for citizens of Lee County and her continued commitment to helping those in need. Peyton and her father Michael Hornung accepted the Resolution, and Mr. Hornung expressed appreciation for the Board’s recognition and emphasized his own pride for his daughter’s selfless actions. ([#20101245](#)-Commissioner Judah)

**ANNOUNCEMENTS**

Referring to the [Agenda Revision Recap Sheet dated January 3, 2011](#), the Chairman announced that:

The Agenda would hereafter reflect Andrea Fraser as Interim County Attorney. There were no Walk-On or Carry-Over Agenda Items submitted for discussion.

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

The Chairman called for public input and the following concerned citizens came forward:

- C14(b) - [William F. Williams](#), on behalf of the residents of Cascades at Estero
- C3(a) and 16(d) – [Mr. Roy Hyman](#)
- C8(c) and A14(e) – Bonita Springs resident [Jack Meeker](#)

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

- Commissioner Mann – C13(a)
- Commissioner Manning - None
- Commissioner Judah – C16(f)
- Commissioner Hall – C3(a)
- Commissioner Bigelow – C1(a)

The items pulled were not heard in Consent agenda order.

**CONSENT AGENDA**

**1. COUNTY ADMINISTRATION**

- A) **ACTION REQUESTED/PURPOSE:**  
Approve a Budget Amendment Resolution to allocate excess fund balance and appropriate budget for operational and grant carryovers; also, approve transfers of funds from reserves and interfund transfers, if necessary, to cover carryover needs. ([#20101234](#)-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**

Assistant County Manager Pete Winton; Budget Services Manager David Harris, and County Manager Karen B. Hawes participated in discussion and responded to Board questions regarding the year-end balancing process, and quarterly financial update expected from the Clerk of the Circuit Court's Office. Ms. Hawes and Mr. Winton advised that budgetary information would be the subject of the second Management and Planning (M&P) meeting in January; noted that the Clerk would provide a quarterly update; and clarified that the Clerk's Finance Director Donna Harn was a member of an Interdepartmental Performance Team would be in attendance. Commissioner Bigelow moved approval, seconded by Commissioner Judah, called and carried.

**RESOLUTION NO. 11-01-01****2. COMMUNITY DEVELOPMENT****A) ACTION REQUESTED/PURPOSE:**

Execute [grant award agreements](#) for \$826,000.00 in 2008/09 – 2009/10 State Housing Initiatives Partnership (SHIP) funds. ([#20101228](#)-COMMUNITY DEVELOPMENT)

**FUNDING SOURCE:**

SHIP Local Housing Assistance Funds.

**WHAT ACTION ACCOMPLISHES:**

Allows the County to enter into grant award agreements to increase the supply of affordable housing and implement the Local Housing Assistance Plan.

**MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

**3. CONSTRUCTION AND DESIGN****A) ACTION REQUESTED/PURPOSE:**

Concur with the ranking by the Competitive Negotiations Committee for CN-10-17 - Design of the Lee Tran Administration, Operations & Maintenance Facility, and authorize negotiations with the number-one ranked firm, in the following order:

- 1) AECOM;
- 2) Reynolds Smith and Hills Inc.;
- 3) Parsons Brickerhoff dba PB Americas;
- 4) Architects Design Group Inc.;
- 5) URS Corporation Southern; and
- 6) Harvard Jolly Architecture.

([#20101248](#)-CONSTRUCTION AND DESIGN)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Provides a Consultant to provide any and all design services for a new Lee Tran Administration, Operation and Maintenance Facility in the City of Fort Myers, Florida.

**MANAGEMENT RECOMMENDATION:**

Approve.

**PULLED FOR DISCUSSION**

Transit Director Steve Myers, Construction and Design Department Manager Damon Grant responded to Board questions regarding the local presence of the number one bidder AECOM; the grant funding utilized for the project; the overall budgetary discussions; and the request to consider long term cost-savings of energy-efficient design, even if a short-term over-run might occur. Commissioner Bigelow stated he would not support the item due to his continuing discomfort with structure of the Selection Committee. Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried with Commissioner Bigelow voting nay.

**4. COUNTY COMMISSIONERS**

No requests received.

**5. COUNTY LANDS**

**A) ACTION REQUESTED/PURPOSE:**

Approve, and authorize the Chair to execute, [five \(5\) Revocable Temporary Licenses](#) to Lee County Electric Cooperative, Inc. (LCEC) for the North Lee County Water Treatment Plant Wellfield Expansion Project No. 7602 and respective [Easement instruments](#) upon completion of the electric facilities. Also, authorize the Division of County Lands to handle all documentation necessary to complete the transactions.

(#20101210-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 licenses/utility easements to LCEC for electric service to five (5) North Lee County Water Treatment Plant Expansion Project well sites.

**MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

**B) ACTION REQUESTED/PURPOSE:**

Approve [Easement Purchase Agreement](#) for the acquisition of Parcel 119-AE ( $\pm 3,232$ ), STRAP No. 05-46-25-00-00002.0130, from owners Michael E. and Mary B. Cheney, for the Alico Road/Briarcliff Stormwater Drainage Canal Project No. 4030, in the amount of \$6,000.00. Pursuant to the Agreement, authorize costs to close in the approximate amount of \$1,000.00; and the Division of County Lands to handle all documentation necessary to complete the transaction. (#20101225-COUNTY LANDS)

**FUNDING SOURCE:**

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

**WHAT ACTION ACCOMPLISHES:**

Acquisition of property necessary for the Alico Road-Briarcliff Stormwater Drainage Canal Project No. 4030, without the necessity of an eminent domain action.

**MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

**6. HUMAN SERVICES**

No requests received.

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

Authorize the Director of Domestic Animal Services (LCDAS) to execute all documents to participate in the Edison Festival 2011 Mutt Strutt and any future events offered by the Edison Festival to promote Lee County Domestic Animal Services programs, services and fundraising initiatives. (#20101194-ANIMAL SERVICES)

**FUNDING SOURCE:**

No funds required.

**WHAT ACTION ACCOMPLISHES:**

Allows Lee County Domestic Animal Services to participate in Edison Festival events to raise community awareness for programs and services offered by the agency, including but not limited to, low-cost spay/neuter, Pet Pantry, etc. Participation in Edison festival events also raises donations to support the Animal Care Trust Fund to provide veterinary care for sick and injured animals for indigent owners and LCDAS shelter pets.

**MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

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

[Accept donation](#) of 24' Carolina Skiff, motor, and trailer from Lee County Sheriff's Office (LCSO), and authorize Chair to execute title. ([#20101206](#)-NATURAL RESOURCES)

**FUNDING SOURCE:**

Donation - N/A.

**WHAT ACTION ACCOMPLISHES:**

Approves donation of vessel, motor, and trailer to the Division of Natural Resources.  
Allows unused vessel to be put back into service.

**MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

**B) ACTION REQUESTED/PURPOSE:**

Approve [transfer](#) from Manatee Conservation Fund Reserves, in the amount of \$13,200.00, to Other Contracted Services in the Manatee Conservation Fund Account, to provide law enforcement activities by the Lee County Sheriff's Office emphasizing manatee speed zones. ([#20101224](#)-NATURAL RESOURCES)

**FUNDING SOURCE:**

Fund – Manatee Conservation Fund; Program – Manatee Conservation; Project – N/A.

**WHAT ACTION ACCOMPLISHES:**

Provides additional on the water law enforcement during the time period manatees seek out warm water refuges in Lee County.

**MANAGEMENT RECOMMENDATION:**

Staff recommends approval.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

**C) ACTION REQUESTED/PURPOSE:**

Approve [Amendment No. 1](#) to the Joint Project Agreement between the South Florida Water Management District and Lee County regarding the Flood Study verifying and validating the South Lee County Watershed Plan. The amendment defines the County's cost share as not to exceed \$133,227.00. All other terms and conditions are unchanged. ([#20101231](#)-NATURAL RESOURCES)

**FUNDING SOURCE:**

Fund – General Fund; Program – Water Resources Major Maintenance Project; Project – SFWMD Grant Projects.

**WHAT ACTION ACCOMPLISHES:**

Provides adjustment to cost share allowing for contract close-out.

**MANAGEMENT RECOMMENDATION:**

Staff recommends approval.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

**D) ACTION REQUESTED/PURPOSE:**

Approve award for the required Excess Liability insurance policy (for the Waste-to-Energy Facility) to Public Risk Insurance Agency in the not-to-exceed amount of \$155,000.00 or award such insurance policy to another underwriter meeting all required conditions and financial capacity for a lesser premium amount if the County receives such quoted proposal in a timely manner and such policy is deemed to be in the best interest of the County. ([#20101232](#)-SOLID WASTE)

**FUNDING SOURCE:**

Fund: Solid Waste System Operations; Program: SW Disposal Facilities; Project: Insurance and Bonds.

**WHAT ACTION ACCOMPLISHES:**

Ensures continuous coverage as required by the Interconnection Agreement between Lee County and FPL.

**MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

**E) ACTION REQUESTED/PURPOSE:**

Authorize Chairman to request funds and/or appropriations set aside for the South Florida Water Management District Agreement, Caloosahatchee River Basin Algal Turf Scrubber,

be utilized for implementation of other innovative nutrient removing technologies for impaired water bodies in Lee County. ([#20101239](#)-NATURAL RESOURCES)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Utilize programmed District funding for alternative projects.

**MANAGEMENT RECOMMENDATION:**

Staff recommends approval.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

**9. PARKS AND RECREATION**

A) **ACTION REQUESTED/PURPOSE:**

Direct Planning staff to initiate re-zonings for eight County preserves (Persimmon Ridge Preserve, Old Bridge Preserve, Charlie's Marsh Preserve, Morse Shores Preserve, Deep Lagoon Preserve, St. James Creek Preserve, Eagle Lake Preserve and Bocilla Preserve) per the Lee Plan. ([#20101212](#)-PARKS AND RECREATION)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

The re-zonings will be consistent with the Lee Plan and the Future Land Use Map and better reflect the uses of these preserves.

**MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

B) **ACTION REQUESTED/PURPOSE:**

Affirm [Memorandum of Agreement \(MOA\)](#) between Lee County Utilities and Lee County Parks and Recreation for usage by Lee County Utilities of the spray field on Pine Island Flatwoods, a Conservation 2020 preserve. ([#20101227](#)-PARKS AND RECREATION)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Provides Lee County Utilities a place to spray effluent in accordance with a Florida Department of Environmental Protection (FDEP) existing permit.

**MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

C) **ACTION REQUESTED/PURPOSE:**

Approve and execute a [License Agreement](#), between Lee County and the Lehigh Acres Senior Citizen's Center, Inc., for the use of a county-owned building for the Lehigh Senior Center, for a contract period of January 1, 2011 through December 31, 2016.

([#20101230](#)-PARKS AND RECREATION)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Allows the Lehigh Acres Senior Center, Inc. to provide a continuation of senior programs in the east area of Lee County.

**MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

**10. PUBLIC SAFETY**

A) **ACTION REQUESTED/PURPOSE:**

Authorize Chair to execute an [Acceptance Letter](#), and also execute an [Agreement](#) with the Division of Emergency Management for Homeland Security funding in the amount of \$9,000.00. No County match required. Also, approve Budget Amendment Resolution in the General Fund for FY10-11 in the amount of \$9,000.00; and approve expenditures in a

like amount. ([#20101229](#)-PUBLIC SAFETY)

**FUNDING SOURCE:**

General Fund/Public Safety Grant.

**WHAT ACTION ACCOMPLISHES:**

Provides financial support to Lee County to conduct homeland security related training.

**MANAGEMENT RECOMMENDATION:**

Approval.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

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

**11. PUBLIC WORKS ADMINISTRATION**

A) **ACTION REQUESTED/PURPOSE:**

Authorize the Chairman to sign a [letter to the South Florida Water Management District \(SFWMD\)](#) in reference to "Lee County's Section 33 Regional Mitigation Site" in order to meet the intent of Special Conditions of the SFWMD permit (No. 36-07251-P) and obtain the first release of wetland mitigation credits generated by the project.

([#20101211](#)-PUBLIC WORKS ADMINISTRATION)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Approval of the letter complies with the intent of SFWMD permit conditions for the Section 33 Regional Mitigation Site, and allows for the first release of wetland mitigation credits generated by the project.

**MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

**12. TRANSPORTATION**

A) **ACTION REQUESTED/PURPOSE:**

Approve a Resolution authorizing the Chair to execute the attached [Post-Project Maintenance Agreement](#) with the Florida Department of Transportation for US 41 (SR 45) from Littleton Road to the Charlotte County Line. ([#20101208](#)-TRANSPORTATION)

**FUNDING SOURCE:**

Maintenance - Fund - Transportation Trust Fund; Program - DOT Operations-Landscape.

**WHAT ACTION ACCOMPLISHES:**

Approves a Resolution and Agreement between, FDOT and Lee County, for Lee County to maintain a Welcome to Lee County sign on U.S. 41, just south of the Charlotte County line. Authorizes the Chair to execute the Resolution and Agreement.

**MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

[RESOLUTION NO. 11-01-03](#)

B) **ACTION REQUESTED/PURPOSE:**

Approve the utilization of piggybacking from the State of Florida's Agreement with American Express for credit card transaction services for the LeeWay Service Center at the rate outlined in Schedule C. This contract shall be in effect until June 30, 2015.

([#20101221](#)-TRANSPORTATION)

**FUNDING SOURCE:**

Fund - LeeWay Service Center; Program - Toll Facilities – LeeWay.

**WHAT ACTION ACCOMPLISHES:**

Allows the LeeWay Service Center the ability to continue to accept AMERICAN EXPRESS credit card.

**MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

**13. UTILITIES**

**A) ACTION REQUESTED/PURPOSE:**

CFM Payments: Per the Interlocal Agreement, approve monthly payments up to the annual amount of \$7,500,000.00 to the City of Fort Myers for FY '10/11 wastewater treatment costs. Projected costs are based on the estimated flows from the Lee County Utilities' system of 1,973,943,940 gallons of wastewater to be treated at the City of Fort Myers' South and Central Plants. Also, authorize payment in the amount of \$239,740.05 for the flat fee amortization of the debt-funded CIP projects. ([#20101218-UTILITIES](#))

**FUNDING SOURCE:**

Fund - Lee County Utilities Operating; Program – Wastewater Treatment Contract; Project – Other Contracted Services.

**WHAT ACTION ACCOMPLISHES:**

Authorizes Lee County Utilities to pay for FY '10/11 wastewater treatment costs in the amount of \$7,500,000.00 based on the City of Fort Myers' flow estimates. Authorizes the payment of \$239,740.05 for the flat fee amortization for the debt-funded CIP projects such as the reuse facility improvements at the South Wastewater Treatment Plant, construction of a backup deep injection well at both the South and Central Wastewater Treatment Plants, and odor control upgrade at the South Wastewater Treatment Plant.

**MANAGEMENT RECOMMENDATION:**

Approval.

**PULLED FOR DISCUSSION**

Following clarification from Assistant County Manager Doug Meurer that the \$7,500,000.00 figure was an annual expense, not monthly; Commissioner Judah moved approval, seconded for discussion by Commissioner Manning. Mr. Meurer confirmed continued participation in a Regional Utilities group; and estimated a target completion date of March for the County's Utility Master Plan. The motion was then called and carried.

**B) ACTION REQUESTED/PURPOSE:**

Approve, and authorize the Chair to execute, a [funding program agreement](#) with the South Florida Water Management District (SFWMD) for the "North Lee County Reverse Osmosis Wellfield Expansion, Phase 2A" Project (Agreement No. 4600002297), which will allow Lee County eligibility for a grant in the amount of \$200,000.00. ([#20101220-UTILITIES](#))

**FUNDING SOURCE:**

No funds required.

**WHAT ACTION ACCOMPLISHES:**

Provides the terms and conditions to be met by the end of August 2011 to receive \$200,000.00 in grant money from the SFWMD for developing an Alternative Water Supply.

**MANAGEMENT RECOMMENDATION:**

Approval.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

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

Approve and authorize execution and recording of an [Agreement between Verandah Community Association, Inc.](#), the Lee County Sheriff and the County for the exercise of County jurisdiction over certain roads within Verandah Community Association for traffic control purposes. ([#20101197-COUNTY ATTORNEY](#))

**FUNDING SOURCE:**

No funds required.

**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 Agreement.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

**B) ACTION REQUESTED/PURPOSE:**

Approve and authorize execution and recording of an [Agreement between Cascades at Estero Residents' Association, Inc.](#), the Lee County Sheriff and the County for the exercise

of County jurisdiction over certain roads within Cascades at Estero Residents' Association for traffic control purposes. ([#20101213](#)-COUNTY ATTORNEY)

**FUNDING SOURCE:**

No funds required.

**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 Agreement.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

C) **ACTION REQUESTED/PURPOSE:**

Adopt a Resolution extending the build-out date for the [Merchants Crossing DRI](#) for two years from October 28, 2012 to October 28, 2014. ([#20101226](#)-COUNTY ATTORNEY)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Extends the build-out date from October 28, 2012 to October 28, 2014 in accord with Florida Statutes and Senate Bill 1752 adopted May 28, 2010.

**MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

[RESOLUTION NO. 11-01-04](#)

D) **ACTION REQUESTED/PURPOSE:**

Amend the [Grant Agreement with the Sierra Club](#), executed by the Board of County Commissioners on December 5, 2006. Also, approve the request for [transfer of funds](#) for the remaining \$100,000.00 grant. ([#20101233](#)-COUNTY ATTORNEY)

**FUNDING SOURCE:**

General Fund/Non-Departmental.

**WHAT ACTION ACCOMPLISHES:**

Provides the Sierra Club with partial financial assistance in the continued prosecution of Sierra Club, et al. v. United States Army Corps of Engineers, et al. and Mosaic Fertilizer, LLC, Case No. 3:10-cv-564-J-25JBT.

**MANAGEMENT RECOMMENDATION:**

Execute the Amended Grant Agreement. (The proposed Amended Grant Agreement, with the amendments highlighted, as attached in the backup material to this item.)

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

**15. HEARING EXAMINER**

No requests received.

**16. CONSTITUTIONAL OFFICERS**

A) **ACTION REQUESTED/PURPOSE:**

Approve disbursement of excess funds resulting from the sale of tax deed certificates to a claimant(s) verified and certified under Florida Statutes 197.582, as follows:

Tax Deed Number	Payee	Amount
2009006062	Michael Sowle	\$36,226.88
2009006643	First Kings Point Condominium Association, Inc., c/o Becker & Poliakoff, P.A.	\$4,697.18

([#20101222](#)-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 disbursement in accordance with Florida Statutes, Chapter 197.

**WHAT ACTION ACCOMPLISHES:**

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

**MANAGEMENT RECOMMENDATION:**

Approve disbursement to identified claimant(s).

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

**B) ACTION REQUESTED/PURPOSE:**

Approve the Minutes for the following meetings of the Board of County Commissioners held during the week of December 6 through December 10, 2010:

December 6, 2010 (Zoning),  
December 6, 2010 (Management & Planning),  
December 7, 2010 (Regular).

(#20101223-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 to approve, 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 December 13 through December 17, 2010:

December 14, 2010 (Regular).

(#20101242-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 to approve, seconded by Commissioner Manning, called and carried.

**D) 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. (#20101243-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 to approve, seconded by Commissioner Manning, called and carried.

**E) ACTION REQUESTED/PURPOSE:**

Consider the adoption of a Resolution approving and authorizing the creation of, Administrative Code AC-3-X, Disposition of Records held by the Clerk of Circuit Court on behalf of the Board of County Commissioners (Board). (#20101244 - FINANCE)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Allows the Clerk of Circuit Court to dispose of records based upon the guidelines set by the State of Florida Bureau of Archives and Records Management.

**MANAGEMENT RECOMMENDATION:**

Adopt the Resolution and the Administrative Code.

Commissioner Hall moved to approve, seconded by Commissioner Manning, called and carried.

RESOLUTION 11-01-05

**F) ACTION REQUESTED/PURPOSE:**

Present for informational purposes interim reporting on selected financial activity and provide an update on the economic changes in today's market (see background information). ([#20101249](#)-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 the Board 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.

PULLED FOR DISCUSSION

Commissioner Judah stated he had pulled this item out of courtesy to Mr. Hyman. Board discussion ensued with County Manager Karen B. Hawes and Assistant County Manager Pete Winton responding to the Board's request to include Clerk of Circuit Court Charlie Green in the upcoming Management & Planning (M&P) Meeting reserved for budget discussion. The Board's intent was clarified as a request for Mr. Green to attend, with no alternate representation, to provide an in-depth understanding of the Clerk's Investment Reports and correlation with the current budget sessions. Commissioner Judah moved approval, seconded for discussion by Commissioner Hall. Final comments included a request to Administration that all Constitutionals participate in the budget meetings and be encouraged to follow the County's lead. The motion was then 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****A) ACTION REQUESTED/PURPOSE:**

Approve, and authorize the Chair to sign, an [Agreement with the Naples International Airport](#) (Airport) establishing conditions and responsibilities such that the Airport will deliver certain regulated waste materials to the Lee County Waste-to-Energy Facility (WTE). (#20101238-SOLID WASTE)

**FUNDING SOURCE:**

No funds required.

**WHAT ACTION ACCOMPLISHES:**

Provides a cooperative agreement for the delivery, processing, and disposal of certain waste materials from Naples International Airport that are regulated by the US Department of Agriculture.

**MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Hall moved approval, seconded for discussion by Commissioner Manning. Following a brief explanation and response to Board questions on details of the activity from Solid Waste Division Director Lindsey J. Sampson, the motion was 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**

No requests received.

**13. UTILITIES**

No requests received.

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

Approve the Resolution of Necessity for the acquisition and condemnation of Fee Simple Interest in Parcels 101, 102, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 123, and 193 are required for the Burnt Store Road Widening Project, No. 4088.

(#20101209-COUNTY ATTORNEY)

**FUNDING SOURCE:**

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

**WHAT ACTION ACCOMPLISHES:**

Allows the County to proceed with condemnation, if necessary, so fee interest rights to parcels can be acquired for the Burnt Store Road Widening Project, No. 4088.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

[RESOLUTION NOS. 11-01-06 through 11-01-19.](#)

**B) ACTION REQUESTED/PURPOSE:**

Approve settlement in Lee County v. Sroczynski, Case No. 10CA-792, Parcel 220, Burnt Store Road Project. ([#20101214](#)-COUNTY ATTORNEY)

**FUNDING SOURCE:**

Fund: Toll surplus, land; Program: Capital Improvement Project; Project: Burnt Store Road Widening

**WHAT ACTION ACCOMPLISHES:**

Settles all claims including attorney and appraiser fees.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**C) ACTION REQUESTED/PURPOSE:**

Approve settlement in Lee County v. Minadeo, Case No. 10CA-791, Parcel 176, Burnt Store Road Project. ([#20101215](#)-COUNTY ATTORNEY)

**FUNDING SOURCE:**

Fund: Toll surplus, land; Program: Capital Improvement Project; Project: Burnt Store Road Widening

**WHAT ACTION ACCOMPLISHES:**

Settles all claims including attorney and appraiser fees.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**D) ACTION REQUESTED/PURPOSE:**

Approve settlement in Lee County v. Domingo, Case No. 10CA-328, Parcel 148, Burnt Store Road Project. ([#20101216](#)-COUNTY ATTORNEY)

**FUNDING SOURCE:**

Fund: Toll surplus, land; Program: Capital Improvement Project; Project: Burnt Store Road Widening

**WHAT ACTION ACCOMPLISHES:**

Settles all claims including attorney and appraiser fees.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**E) ACTION REQUESTED/PURPOSE:**

Upon the making and adoption of certain findings by the Board, approve and direct County staff to reimburse Commissioner Franklin (Frank) Mann \$6,374.21 in eligible legal fees and costs for his defense in The State of Florida Commission On Ethics Complaint No. 09-042, which was dismissed by the Commission on December 8, 2010, by the Finding of No Probable Cause. ([#20101237](#)-COUNTY ATTORNEY)

**FUNDING SOURCE:**

General Fund Non-departmental.

**WHAT ACTION ACCOMPLISHES:**

Reimburses Commissioner Frank Mann for the Finding of No Probable Cause before the State of Florida Commission On Ethics in Complaint No. 09-042, pursuant to Florida law.

**MANAGEMENT RECOMMENDATION:**

BoCC to provide direction.

Commissioner Judah moved approval, seconded for discussion by Commissioner Manning. At the request of Commissioner Mann, Interim County Attorney Andrea Fraser provided an explanation of the governing laws and Statutes, and noted that Commissioner Mann was required by law to vote on this matter. The motion was called and carried.

**15. HEARING EXAMINER**

No requests received.

**16. CONSTITUTIONAL OFFICERS**

No requests received.

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

No requests received.

**COMMISSIONER ITEMS**

**PROFESSIONAL PHOTOGRAPHERS DISPLAY** – Commissioner Hall invited all to stop by her office to enjoy the photography on display from members of the Professional Photographers of Southwest Florida, a not-for-profit organization dedicated to providing quality education to their members. Commissioner Hall thanked representative and contributing artist Carrie Smith for providing the display; and noted it would be available for viewing until February 11.

**MEDIA RECOGNITION** – After wishing all present a Safe and Happy New Year, Commissioner Hall expressed appreciation to the *New-Press* for their recognition of significant contributions and special efforts of several County employees as well as the many accomplishments Lee County Government has achieved for the community.

**NORTH CAPE CORAL SPREADER** – Referencing his memorandum previously distributed (copy on file in the Minutes Office), Commissioner Manning moved to approve that a [letter be sent from the Chair](#) to the appropriate Florida Department of Environmental Protection (FDEP) District principals, seconded for discussion by Commissioner Hall. Board dialog ensued with a status update from Natural Resources Director Roland Ottolini, including direction to Administration and staff that a monthly update would be provided in order to maintain focus on the project and assure forward movement. The Board discussion also resulted in a decision that an additional issue should be added to the points raised in Commissioner Manning’s memorandum, with the inclusion of strong language challenging the State’s current position that a return be built along the western shore as a separation of state and city waters, exactly opposite their previous position and a hindrance to providing the required protection to Matlacha Pass. The maker and seconder agreed to incorporate the additional language; it was further decided that Commissioner Manning and Mr. Ottolini would coordinate the technicalities of the language, with reviews by both Commissioner Judah for content and a final review by Interim County Attorney Andrea Fraser prior to the letter being forwarded for signature. With concurrence from all parties, the motion was then called and carried including the additional language.

**COE IMPACT STUDY** – Commissioner Judah reported that he had been notified that the County needed to submit input to the Army Corps of Engineers (COE) area-wide Environmental Impact Statement (EIS) Study regarding phosphate mining’s impact to local receiving waters no later than January 23. The ensuing discussion, with input from Natural Resources Director Roland Ottolini, focused on producing an all-inclusive list of county concerns and issues for Board approval at the next regular meeting. Mr. Ottolini advised that proposals had already been requested from consultants familiar with the issues, and reminded the Board that the County had responded to COE with notification of their intent to participate. Additional dialog resulted in direction that Mr. Ottolini contact the appropriate COE parties to solidify the exact nature and due date of the request; whether the County’s previous response had satisfied the request; and follow up as required with the consultants regarding turn-around times.

**TOLL FINE COMPLAINT** – Referring to a complaint letter published in the December 20, 2010 edition of the *News-Press* from a recent visitor reporting a distressing experience, Commissioner Mann requested that Transportation Division Deputy Director Paul Wingard investigate and handle the situation to the customer’s satisfaction.

**HOMEOWNER’S REQUEST FOR RESOLUTION** – Commissioner Mann advised that several Homeowner groups had requested Board support through the adoption of a Resolution that they could present to the United States Post Office in support of their request to change their mailing address from “Fort Myers, Florida” to “Estero Bay, Florida”. Commissioner Manning moved approval of preparing a draft Resolution, seconded by Commissioner Hall for discussion. Following brief comments by Commissioner Hall and County Manager Karen B. Hawes, the motion was clarified that Administration would bring a Resolution back on a Bluesheet at the next meeting. The motion was then called and carried.

**FINAL ITEM** - Commissioner Mann wished Barbara B. Mann a Happy 98<sup>th</sup> Birthday.

**COMMITTEE APPOINTMENTS**

Commissioner Hall moved to reappoint Rudy Froeschle to the **WATERWAY ESTATES STREETLIGHTING UNIT COMMITTEE**; Mary Fisher to the **TROPIC ISLES STREETLIGHTING UNIT**

**COMMITTEE; and Dan Popa and Donald Rose to the NORTH FORT MYERS STREETLIGHTING AND SIDEWALK UNIT COMMITTEE, seconded by Commissioner Manning, called and carried.**

Commissioner Manning moved to reappoint Deb Reardon and Charles Lepley to the **COMMUNITY ACTION AGENCY/NEIGHBORHOOD DISTRICT COMMITTEE; and to appoint Terry Miller to the CONSERVATION LAND ACQUISITION AND STEWARDSHIP COMMITTEE, seconded by Commissioner Hall, called and carried.**

Commissioner Judah moved to reappoint Luther Campbell and Miriam Ortiz to the **HARLEM HEIGHTS STREETLIGHTING UNIT COMMITTEE, seconded by Commissioner Manning, called and carried.**

Commissioner Bigelow moved to reappoint Steve Rodgers to the **BICYCLE/PEDESTRIAN ADVISORY COMMITTEE; reappoint Phyllis Goins and Clarence Bowman to the MORSE SHORES COMMITTEE; to appoint Wayne Daltry to the LAND DEVELOPMENT CODE ADVISORY BOARD; to reappoint William C. Mantis and to appoint Wayne Daltry to the COMMUNITY SUSTAINABILITY ADVISORY COMMITTEE; to appoint Terry Miller to the EXECUTIVE REGULATORY OVERSIGHT COMMITTEE; and to appoint John Mozzicato, Anne Gomez, Mary Eilertson, and Geneva Sweetland to the PINE MANOR ADVISORY BOARD, seconded by Commissioner Mann, called and carried.**

Commissioner Mann requested a motion to reappoint Dennis J. Lesser to the **FORT MYERS SHORES STREETLIGHTING UNIT, and to reappoint Debra L. Shuman and Edd T. Weiner, and appoint George Szymanski to the LEHIGH ACRES STREETLIGHTING UNIT. Commissioner Hall so moved, seconded by Commissioner Manning, called and carried.**

**COUNTY MANAGER ITEMS**

County Manager Karen B. Hawes had no items to offer.

**COUNTY ATTORNEY ITEMS**

Referencing her [Memorandum to the Board dated January 3, 2011](#), (copy on file in the Minutes Office) Interim County Attorney Andrea Fraser reiterated that the Tex Development Executive Session was to be held on Wednesday, January 26, 2011, at 10:00; beginning in Chambers and re-convening in the East Room. Attorney Fraser explained that Gregory T. Stewart, Esq., of Nabors, Giblin & Nickerson, had been retained as counsel. Extended discussion ensued with input from Attorney Fraser as required. Dialog was closed with a Board request to include as attendees to the session specified personnel from the Division of County Lands and the Department of Transportation. Attorney Fraser stated she would respond to the Board’s request after she verified whether statutory limitations existed to preclude their request.

The Chairman adjourned the meeting at 10:55 a.m.

ATTEST:  
CHARLIE GREEN, CLERK

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

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