

[JUNE 14, 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 Ryan Deaton, Life Church, followed by the Pledge of Allegiance to the Flag.

**PRESENTATIONS**

Commissioner Mann read and presented a Ceremonial Resolution proclaiming June 20, 2011 as Unitarian Universalist Church of Fort Myers Day. Members of the Church, on behalf of the Board of Trustees President Ellen Erickson and Reverend Allison Farnum, accepted the Resolution, and thanked the Board. ([#20110464](#)-County Commissioners)

Commissioner Judah read and presented a Ceremonial Resolution observing June 15, 2011 as Elder Abuse Awareness Day, and extending greetings and best wishes to all. The Lee Elder Abuse Prevention Partnership (LEAPP) members, on behalf of their President Erickson, accepted the Resolution and thanked the Board. ([#20110465](#)-Commissioner Judah)

Walk on Item No. 1 was heard at this time. See that item for action taken.

At this time Chairman Mann introduced Artist Marlin Miller and his wife Renee, together with Mark Michaels of Naples. The Chair, on behalf of the Board, thanked Mr. Miller for the magnificent eagle sculpture of the old oak tree, and noted that Mr. Miller offered his services at no cost.

**ANNOUNCEMENTS**

Referring to the [Agenda Recap Sheet](#) dated June 14, 2011, the Chairman announced that:

The 9:30 a.m. Public Hearing No. 2 should be deferred until September 13, 2011, in order to receive further input from law enforcement and the towing industry. Commissioner Manning moved approval, seconded by Commissioner Hall, called and carried.

One Walk on item would be heard during the Presentation portion.

Immediately following the Ceremonial Presentation, there would be a special introduction of the Tree Artist Marlin Miller.

The County Manager item would be taken at the appropriate time.

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

No one from the general public came forward to offer comments.

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

Commissioner Mann – 10(c)  
Commissioner Manning - None  
Commissioner Judah – 1(a)  
Commissioner Hall - None  
Commissioner Bigelow – 1(a), 3(a), 7(f)

**CONSENT AGENDA**

**1. COUNTY ADMINISTRATION**

- A) **ACTION REQUESTED/PURPOSE:**  
Approve the ranking of firms by the Proposal Evaluation Committee for RFP-11-01 Tourism Advertising, Program Planning, Creation and Implementation, in the following order of ranking; and authorize contract negotiations to commence with the number one ranked firm:  
  
(1) [MMG Worldwide](#)  
(2) BVK

Further, authorize Chair to execute an agreement for an amount up to \$8,500,000.00, upon approval of additional funding, with a contract period of October 1, 2011 through September 30, 2014 with the option of renewal for two (2) one (1) year periods (for a possible 5 year term). ([#20110445](#)-VISITOR AND CONVENTION BUREAU).

**FUNDING SOURCE:**  
Fund: Tourist Dev. Tax Trust; Program: VCB Visitor and Convention Bureau; Project: Promo Advertising & Expenses.

**WHAT ACTION ACCOMPLISHES:**  
The selected proposer shall be the principal advisor and provider to the Visitor & Convention Bureau (VCB) for the following advertising services: Development of a strategic advertising plan; creative strategy, creation and production of all advertising; placement of advertising, regardless of type, at the lowest competitive rate; development and coordination of media plans; brand marketing; create and implement cooperative advertising programs; and develop promotions in order to stretch the reach of the advertising budget.

**MANAGEMENT RECOMMENDATION:**

PULLED FOR DISCUSSION

Commissioner Bigelow stated that he could not support the requested item due to his long-standing disagreement with the makeup of the Selection Committee. Commissioner Judah expressed disappointment over the selection and thanked Mary DeLong of BVK Advertising for the firm’s excellent service to Lee County for many years; and moved the item, seconded by Commissioner Manning, the motion was called and carried with Commissioner Bigelow voting nay.

2. **COMMUNITY DEVELOPMENT**

- A) **ACTION REQUESTED/PURPOSE:**  
Extend from July 31, 2011 to July 31, 2012 the following contracts for the preparation of historic preservation plans:  
  
[C-4354](#) for Whidden's Marina in Boca Grande  
[C-4355](#) for the Alva Library/Museum in Alva  
  
([#20110481](#)-COMMUNITY DEVELOPMENT)  
**FUNDING SOURCE:**  
No additional funding requested.  
Lee County Unincorporated Area Municipal Service Taxing and Benefit (MTSU)  
Program: Planning.  
**WHAT ACTION ACCOMPLISHES:**  
Allows the county to extend two existing contracts.  
**MANAGEMENT RECOMMENDATION:**  
Approve.

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

3. **CONSTRUCTION AND DESIGN**

- A) **ACTION REQUESTED/PURPOSE:**  
(A) Award and authorize staff to enter into a Construction Manager Agreement for RFQ-11-02 Fort Myers Beach Fishing Pier Restoration, to [Fowler Construction and Development](#) (a local Contractor), for a Guaranteed Maximum Price (GMP) of \$864,314.00 (includes a CM Fee of \$52,724.00) or 7.3% of the project with a project completion time of 154 calendar days and utilizing 100% of local sub-contractors.  
(B) Authorize Chair to execute the Construction Management Agreement upon receipt.

(#20110444-CONSTRUCTION AND DESIGN)

**FUNDING SOURCE:**

Fund – Tourist Development Beach Capital Improvement Fund; Program – Major Maintenance Project; Project – Lynn Hall Pier Repair.

**WHAT ACTION ACCOMPLISHES:**

Provides a qualified consultant to perform the following: Wrap the existing fishing pier with fiberglass jackets and inject with epoxy from column line 14 West. Replace existing railings, restoration of the existing beams, precast planks, and bearing brackets.

**MANAGEMENT RECOMMENDATION:**

Approve.

PULLED FOR DISCUSSION

Commissioner Bigelow stated that Consent Agenda Items 3(a), and 7(f) could be addressed collectively, and noted his long-standing disagreement with the makeup of the Selection Committee. Commissioner Hall moved approval, 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:**

A) Approve and execute a [utility easement](#) with STRAP No. 24-45-25-02-00006.0000, located at 11500 Ballpark Drive, Fort Myers, Florida, to Florida Power & Light Company for the Boston Red Sox Spring Training Facility.

B) Authorize the Division of County Lands the payment to record, in the approximate amount of \$30.00; and to handle all documentation necessary to complete the transaction.

(#20110460-COUNTY LANDS)

**FUNDING SOURCE:**

Fund: Capital Improvement Fund; Program: Capital Project; Project: Boston Red Sox Spring Training Facility.

**WHAT ACTION ACCOMPLISHES:**

Provides a utility easement providing electric service to the Boston Red Sox Spring Training Facility.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

B) **ACTION REQUESTED/PURPOSE:**

Approve and execute a second [utility easement](#) with STRAP No. 24-45-25-02-00006.0000, located at 11500 Ballpark Drive, Fort Myers, Florida, to Florida Power & Light Company for the Boston Red Sox Spring Training Facility. Authorize the Division of County Lands the payment to record, in the approximate amount of \$30.00; and to handle all documentation necessary to complete the transaction. (#20110480-COUNTY LANDS)

**FUNDING SOURCE:**

Fund: Capital Improvement Fund; Program: Capital Project; Project: Boston Red Sox Spring Training Facility.

**WHAT ACTION ACCOMPLISHES:**

Provides a utility easement providing electric service to the Boston Red Sox Spring Training Facility.

**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:**

- (1) Approve the use of Collier County Bid # 10-5588R via Lee County Cooperative Agreement # C-110307 for the purchase and delivery of Fungicides, Pesticides and Herbicides for all County departments and divisions.
- (2) Approve award to the following companies:

a) Univar USA, Inc.

b) Red River Specialties, Inc.

c) Helena Chemical, Forestry Resources (a local vendor)

d) Diamond R Fertilizer Co

e) Alligare

At the prices as listed on the attached Tabulation Sheet.

(3) Annual county-wide expenditure is approximately \$200,000.00.

(4) The initial term of this bid is one-year; also request authority to renew this bid for three (3) additional one-year periods; and exercise the price escalator clause if so authorized by Collier County over the term of the bid. ([#20110435](#)-PROCUREMENT MANANGEMENT)

**FUNDING SOURCE:**  
Funding will be available from the individual departments or division’s budget whom will be responsible for monitoring their individual expenditures.

**WHAT ACTION ACCOMPLISHES:**  
This action will allow will allow County departments and divisions to obtain fungicides, pesticides and herbicides on an as-needed basis at competitively quoted prices.

**MANAGEMENT RECOMMENDATION:**  
Approve.

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

- B) **ACTION REQUESTED/PURPOSE:**

(A) Approve award of Formal Quotation No. Q-110253 Parking Monitoring Services for the Division of Facilities Services, to the low quoter meeting specifications, Allegiance Security Group, LLC (a local vendor), at the cost listed on the attached Lee County Tabulation Sheet.

(B) The initial term of this quote is one year; also request authority to renew this quote for four additional one-year periods, at the same terms and conditions, if in the best interest of Lee County; and to exercise the consumer price index adjustment as per the specifications on an as needed basis.

(C) Funding will come from the individual department or division's budget whom will be responsible for monitoring their individual expenditures. The Division of Facilities Services anticipates using approximately 12,000 hours annually for these services. ([#20110467](#)-FACILITIES MANAGEMENT)
- FUNDING SOURCE:**  
Fund: General Fund; Program: Facilities Maintenance; Project: Other Contracted Services.

**WHAT ACTION ACCOMPLISHES:**  
Allows the Division of Facilities Services to monitor the county parking lots.

**MANAGEMENT RECOMMENDATION:**  
Approve.
- Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried.
- C) **ACTION REQUESTED/PURPOSE:**

Authorize Chairman to Execute [Agreements \(3\)](#) with the Agency for Persons with Disabilities (APD) for Medicaid Waiver transportation services provided by Lee Tran Passport Service. One agreement is the standard state agency renewal agreement for the next three year period, the other two are technical amendments to the current agreement due to the state agency reducing Lee Tran's billing rate for the period of April 1, 2011 through April 15, 2011 and then reinstating rates for the period of April 16, 2011 through June 30, 2011.

APD Agreement is the administrative document that allows Lee Tran to electronically bill the APD Agency for services provided. ([#20110469](#)-TRANSIT)
- FUNDING SOURCE:**  
Paratransit trip revenue stemming from Medicaid waiver transportation service.

**WHAT ACTION ACCOMPLISHES:**
- APPROVED MINUTES OF 061411R-----

Allows Lee Tran to collect a contract rate for the provision of transportation service through direct electronic billing.  
**MANAGEMENT RECOMMENDATION:**  
Approve.

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

- D) **ACTION REQUESTED/PURPOSE:**  
Approve the electronic submission of Federal Transit Administration Section USC 5316 Job Access Reverse Commute grant application and authorizing resolution accepting the Fiscal Year 2011 apportionment \$188,758. Upon approval by the FTA, authorize execution of the grant agreement and allow for receipt and or modification of funding under this agreement. ([#20110471](#)-TRANSIT)  
**FUNDING SOURCE:**  
100% federally funded.  
**WHAT ACTION ACCOMPLISHES:**  
Allows LeeTran to access federal grant funds apportioned annually for administration, planning and implementation of grant activities related to the FTA USC Section 5316 JARC grant program.  
**MANAGEMENT RECOMMENDATION:**  
Approve.

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

[RESOLUTION NO. 11-06- 06](#)

- E) **ACTION REQUESTED/PURPOSE:**  
Approve the electronic submission of Federal Transit Administration Section USC 5317 New Freedom grant application and authorizing resolution accepting the Fiscal Year 2011 apportionment \$144,098. Upon approval by the FTA, authorize execution of the grant agreement and allow for receipt and or modification of funding under this agreement ([#20110472](#)-TRANSIT)  
**FUNDING SOURCE:**  
100% federally funded.  
**WHAT ACTION ACCOMPLISHES:**  
Allows LeeTran to access federal grant funds apportioned annually for administration, planning and implementation of grant activities related to the FTA USC Section 5317 New Freedom grant program.  
**MANAGEMENT RECOMMENDATION:**  
Approve.

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

[RESOLUTION NO. 11-06-07](#)

- F) **ACTION REQUESTED/PURPOSE:**  
A) Concur with the selection of Construction Managers by the Qualification Selection Committee for RFQ-11-05, Annual Contract for Construction Management, and authorize staff to negotiate on a project-by-project basis the percentage of the CM fees and the Guaranteed Maximum Price (GMP) with the following nine (9) firms: [AIM Construction Contracting LLC](#); [Ajax Building Corporation](#); [Brooks & Freund LLC](#); [Fowler Construction and Development](#); [J.L. Wallace, Inc.](#); [Made in Rio Inc.](#); [Stevens Construction Inc.](#); [Taylor-Pansing Inc.](#); and [Westco Builders of Florida, Inc.](#) This contract will be for a period of two (2) years.  
B) Authorize Chair to execute Agreement on behalf of the Board upon receipt. ([#20110473](#)-PROCUREMENT MANAGEMENT)  
**FUNDING SOURCE:**  
N/A.  
**WHAT ACTION ACCOMPLISHES:**  
Provides the County with several Construction Managers, which will provide any and all services on an as-needed, project-by-project basis under the construction management process for projects between \$100,000.00 through \$1,000,000.00.  
**MANAGEMENT RECOMMENDATION:**  
Approval.



PULLED FOR DISCUSSION

Commissioner Bigelow stated that Consent Agenda Items 3(a), and 7(f) could be addressed collectively, noting that he had expressed his long-standing disagreement with the makeup of the Selection Committee. Commissioner Hall moved approval, seconded by Commissioner Manning called and carried, with Commissioner Bigelow voting nay.

8. NATURAL RESOURCES/ SOLID WASTE

No requests received.

9. PARKS AND RECREATION

No requests received.

10. PUBLIC SAFETY

- A) **ACTION REQUESTED/PURPOSE:**  
Authorize Chairman to approve a [Certificate of Public Convenience and Necessity \(COPCN\) to the Lee Memorial Health System](#), an independent special district, to conduct advance life support (ALS) transport service for neonatal and pediatric transports. (#20110453-PUBLIC SAFETY)  
**FUNDING SOURCE:**  
N/A.  
**WHAT ACTION ACCOMPLISHES:**  
Grants the applicant license to provide ALS service in accordance with State law and provisions contained in Lee County Ordinance 08-16.  
**MANAGEMENT RECOMMENDATION:**  
Staff recommends approval.

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

- B) **ACTION REQUESTED/PURPOSE:**  
Authorize Chairman to approve a [Certificate of Public Convenience and Necessity \(COPCN\) to the Cape Coral Fire, Rescue and Emergency Management Services](#) department to conduct advance life support (ALS) non-transport service, emergency medical care. (#20110459-PUBLIC SAFETY)  
**FUNDING SOURCE:**  
N/A.  
**WHAT ACTION ACCOMPLISHES:**  
Grants the applicant license to provide ALS non-transport service in accordance with State law and provision contained in Lee County Ordinance 08-16.  
**MANAGEMENT RECOMMENDATION:**  
Management recommends approval.

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

- C) **ACTION REQUESTED/PURPOSE:**  
Approve [Modification to state-funded subgrant agreement 07-EC-33-09-46-01-490](#) with the State of Florida, Division of Emergency Management to extend state funds of \$1,480,839 to April 20, 2012 and federal funds for Phase I of \$70,274 to May 2, 2012. Approve additional federal funds for Phase II, Construction in the amount of \$3,080,332. Approve budget resolution in the amount of \$3,080,332 and [two \(2\) budget transfers](#) in the reduced amount of \$3,080,332 and amend FY10-11 CIP accordingly. (#20110450-PUBLIC SAFETY)  
**FUNDING SOURCE**  
Fund – Capital Improvement (Grant Funds); Program-Capital Improvement; Project – Emergency Operations Center. This action does not increase the total project budget.  
**WHAT ACTION ACCOMPLISHES**  
Provides an extension and additional grant funds to offset preliminary and constructions costs of a new EOC.  
**MANAGEMENT RECOMMENDATION**  
Approve.

PULLED FOR DISCUSSION

Commissioner Mann noted that he had objected to the Emergency Operations Center (EOC) in the past and expressed he would be consistent with his objection. Commissioner Bigelow also stated that he could not support this item. Commissioner Judah moved approval, seconded by Commissioner Manning, called and carried with Commissioners Mann and Bigelow voting nay.

RESOLUTION NO. 11-06-08

- D) **ACTION REQUESTED/PURPOSE:**  
Approve and execute the [Emergency Management Preparedness and Assistance \(EMPA\) Base Grant Agreement](#) with the Florida Department of Community Affairs which provides a \$105,806.00 grant to enhance the county's emergency management program. Authorize the continuation of two grant funded full-time employees. Approve Budget Amendment Resolution in the general fund for FY11 in the amount of \$105,806.00 and approve the expenditures in the like amount. ([#20110451](#)-PUBLIC SAFETY)  
**FUNDING SOURCE**  
General Fund/Public Safety Grant.  
**WHAT ACTION ACCOMPLISHES**  
Furnishes funding to improve the county’s emergency program in a manner consistent with the State Emergency Management Plan and supporting programs.  
**MANAGEMENT RECOMMENDATION**  
Staff recommends approval of request.

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

RESOLUTION NO. 11-06-09

- E) **ACTION REQUESTED/PURPOSE:**  
Approve and execute an [Agreement with the State of Florida, Division of Emergency Management](#) which provides a \$129,065.00 grant to enhance the county's emergency management program. Approve Budget Amendment Resolution in the general fund for FY11 in the amount of \$129,065.00 and approve the expenditures in the like amount. ([#20110452](#)-PUBLIC SAFETY)  
**FUNDING SOURCE**  
General Fund/Public Safety Grant.  
**WHAT ACTION ACCOMPLISHES**  
Furnishes funding to improve the county’s emergency program in a manner consistent with the State Emergency Management Plan and supporting programs.  
**MANAGEMENT RECOMMENDATION**  
Staff recommends approval of request.

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

RESOLUTION NO. 11-06-10

- F) **ACTION REQUESTED/PURPOSE:**  
Approve [Agreement between Lee Memorial Health System](#) and Lee County Board of County Commissioners for Intra and Inter-facility transport services. ([#20110466](#)-PUBLIC SAFETY)  
**FUNDING SOURCE:**  
N/A.  
**WHAT ACTION ACCOMPLISHES:**  
Establishes Lee County Emergency Medical Service (EMS) as the primary ambulance provider for Intra and Inter-facility transport services for Lee Memorial Health System.  
**MANAGEMENT RECOMMENDATION:**  
Approve.

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

11. **PUBLIC WORKS ADMINISTRATION**

No requests received.

12. **TRANSPORTATION**

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

o Approve [Change Order No. 6](#) to project B-09-13 Colonial Boulevard Six Laning - I-75 to SR 82, to Posen Construction, Contract No. 4775, in the amount of \$167,558.10.

- o Authorize Chair to execute Change Order on behalf of the Board ([#20110429-TRANSPORTATION](#))  
**FUNDING SOURCE**  
Fund - Road Impact Fees Central District: Program - Capital Projects: Project - Colonial Boulevard.  
**WHAT ACTION ACCOMPLISHES**  
Compensates Contractor for substituting asphalt base, spread footer foundations for street lights and installation of a modified drill shaft for Mast Arm #6. This additional work is due to conflicts with TECO gas mains. TECO shall partially reimburse Lee County for the work.  
**MANAGEMENT RECOMMENDATION**  
Approve.

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

13. UTILITIES

- A) **ACTION REQUESTED/PURPOSE:**  
FDOT Signature Authorizations (BS 20110433/19886, TH/SDG): Authorize Chair, on behalf of the Board, to approve a new "[Delegation and Special Power of Attorney](#)" form authorizing Lee County Utilities staff members to sign for Lee County Utilities (LCU), as "OWNER" on specific documents required by the Florida State Department of Transportation (FDOT), relating to utility relocations and improvement work located in FDOT rights-of-way. ([#20110433-UTILITIES](#))  
**FUNDING SOURCE**  
No funds required.  
**WHAT ACTION ACCOMPLISHES**  
Allows Lee County to meet the requirements of the FDOT whereas they are requiring a formalization of those persons authorized to execute any FDOT documents on behalf of Lee County.  
**MANAGEMENT RECOMMENDATION**  
Approval.

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

14. COUNTY ATTORNEY

No requests received.

15. HEARING EXAMINER

No requests received.

16. CONSTITUTIONAL OFFICERS

- A) **ACTION REQUESTED/PURPOSE:**  
The Lee County Sheriff's Office requests approval to submit an application requesting funding through the Bulletproof Vest Partnership grant issued by the Bureau of Justice Assistance. ([#20110483-SHERIFF](#))  
**FUNDING SOURCE:**  
Bureau of Justice Assistance.  
**WHAT ACTION ACCOMPLISHES:**  
Federal regulations controlling the grant require authorization for application from the Board of County Commissioners. Authorization affords the LCSO the opportunity to purchase bulletproof vests with grant funds.  
**MANAGEMENT RECOMMENDATION:**  
Approve.

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

- B) **ACTION REQUESTED/PURPOSE:**  
Authorize Lee County Sheriff's Office (LCSO) to submit an application, and if awarded, receive funds on behalf of Lee County from Operation Stonegarden in the amount of \$1,092,052.91. ([#20110484-SHERIFF](#))



**FUNDING SOURCE:**  
The U.S. Department of Homeland Security.

**WHAT ACTION ACCOMPLISHES:**  
Authorize Lee County Sheriff’s Office (LCSO) to submit application, and if awarded, receive funds on behalf of Lee County from the U.S. Department of Homeland Security for Operation Stonegarden. Funding is intended to enhance cooperation and coordination among local, tribal, territorial, state and federal law enforcement agencies in a joint mission to secure the U.S. borders along routes of ingress from international borders.

**MANAGEMENT RECOMMENDATION:**  
Approve.

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 May 30 through June 3, 2011.

May 31, 2011 (Regular)

(#20110487-MINUTES)

**FUNDING SOURCE:**  
Not Applicable.

**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.

- 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.  
(#20110488-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.

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

No requests received.

**ADMINISTRATIVE AGENDA**

1. **COUNTY ADMINISTRATION**

- A) **ACTION REQUESTED/PURPOSE:**  
Approve settlement agreement in the liability case of Lopez, Consuelo v. Lee County, case number 10-CA-004224 in the amount of \$80,000 inclusive of attorney's fees, and costs.  
(#20110454-COUNTY MANAGER)
- FUNDING SOURCE:**  
Self-Insurance Loss Fund.
- WHAT ACTION ACCOMPLISHES:**  
Resolves this case prior to trial, limiting the County’s exposure.
- MANAGEMENT RECOMMENDATION:**  
Approve.

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

- B) **ACTION REQUESTED/PURPOSE:**  
Approve the early payment of the principal balance of \$34,090,000 for the Solid Waste System Refunding Bonds, Series 2001. Also approve [budget transfers](#) and resolution. (#20110458-COUNTY MANAGER)  
**FUNDING SOURCE:**  
Solid Waste System Reserves.  
**WHAT ACTION ACCOMPLISHES:**  
Allows the debt to be paid early, saving \$2,861,931 in interest costs.  
**MANAGEMENT RECOMMENDATION:**  
Approve.

Commissioner Hall moved approval, seconded by Commissioner Manning. Following Solid Waste Director Lindsey Sampson and Assistant County Manager Pete Winton responding to inquiry regarding reserves by Commissioner Bigelow, the motion was called and carried.  
[RESOLUTION NO. 11-06-11](#)

2. **COMMUNITY DEVELOPMENT**  
  
No requests received.
3. **CONSTRUCTION AND DESIGN**  
  
No requests received.
4. **COUNTY COMMISSIONERS**  
  
No requests received.
5. **COUNTY LANDS**  
  
No requests received.
6. **HUMAN SERVICES**  
  
No requests received.
7. **INDEPENDENT**  
  
No requests received.
8. **NATURAL RESOURCES/ SOLID WASTE**  
  
No requests received.
9. **PARKS AND RECREATION**  
  
No requests received.
10. **PUBLIC SAFETY**  
  
No requests received.
11. **PUBLIC WORKS ADMINISTRATION**  
  
No requests received.
12. **TRANSPORTATION**  
  
No requests received.
13. **UTILITIES**  
  
No requests received.

14. COUNTY ATTORNEY

No requests received.

15. HEARING EXAMINER

No requests received.

16. CONSTITUTIONAL OFFICERS

No requests received.

17. PORT AUTHORITY AND OTHER GOVERNING BOARDS

No requests received.

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

1. **ACTION REQUESTED/PURPOSE:**  
Approve Resolution amending Resolution No. 05-11-81 adopted on November 29, 2005 and amended by Resolution No. 11-04-27 on April 12, 2011, to designate two Port Authority managerial or policy-making positions within the Florida Retirement System (FRS) Senior Management Service Class (SMSC) and re-designate the existing Deputy Executive Director position to Deputy Executive Director - Aviation. ([#20110431](#)-COUNTY ATTORNEY)  
**FUNDING SOURCE:**  
N/A.  
**WHAT ACTION ACCOMPLISHES:**  
Allows FRS to add the positions of Deputy Executive Director - Administration and Deputy Executive Director - Development to the SMSC and re-designate the Deputy Executive Director position to Deputy Executive Director - Aviation.  
**MANAGEMENT RECOMMENDATION:**  
Approve Resolution.

Assistant County Attorney Greg Hagan approved, as to legal form and sufficiency, the Affidavit of Publication for this item, and briefly described the request. Following response by Attorney Hagan to Commissioner Bigelow’s procedural inquiry, Commissioner Judah moved approval, seconded by Commissioner Manning. The Chairman called for public comment; however, no one came forward. The motion was called and carried  
[RESOLUTION NO. 11-06-12](#)

2. **ACTION REQUESTED/PURPOSE:**  
Conduct a Public Hearing and consider the adoption of an ordinance repealing and replacing Lee County Ordinances No. 00-13 and No. 94-27, collectively, the Lee County Towing Ordinance and the adoption of the Resolution establishing the maximum rate schedule. ([#20110468](#)-COUNTY ATTORNEY)  
**FUNDING SOURCE:**  
N/A.  
**WHAT ACTION ACCOMPLISHES:**  
Repeals and replaces the Lee County Towing Ordinance and establishes a new maximum rate schedule.  
**MANAGEMENT RECOMMENDATION:**  
Adopt Ordinance.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: The 9:30 a.m. Public Hearing No. 2 should be deferred until September 13, 2011, in order to received further input from law enforcement and the towing industry. Commissioner Manning moved approval, seconded by Commissioner Hall, called and carried.

Assistant County Attorney Jed Schneck approved, as to legal form and sufficiency, the Affidavit of Publication for this item, and briefly described the request. The Chairman called for public comment, however, no one came forward.

3. **ACTION REQUESTED/PURPOSE:**  
Adopt an amendment to Lee County Ordinance 09-19, known as the Lee County Child Safety Zone Ordinance. ([#20110474](#)-COUNTY ATTORNEY)

**FUNDING SOURCE:**

N/A.

**WHAT ACTION ACCOMPLISHES:**

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

**MANAGEMENT RECOMMENDATION:**

Approve.

Assistant County Attorney Dawn Perry-Lehnert approved, as to legal form and sufficiency, the Affidavit of Publication for this item, and briefly described the request. Commissioner Hall moved approval, seconded by Commissioner Judah. The Chairman called for public comment; however, no one came forward. The motion was called and carried. The Ordinance adopted by the Board and filed was [LEE COUNTY ORDINANCE NO. 11-05 ENTITLED:](#)

AN ORDINANCE AMENDING AND RESTATING LEE COUNTY ORDINANCE 09-19 KNOWN AS THE CHILD SAFETY ZONE ORDINANCE PROVIDING FOR A TITLE, LEGISLATIVE FINDINGS AND INTENT; APPLICABILITY; DEFINITIONS; PROHIBITING SEXUAL PREDATORS AND OFFENDERS FROM BEING PRESENT, LOITERING OR PROWLING WITHIN 300 FEET OF CERTAIN SPECIFIED LOCATIONS THAT ARE PRIMARILY DESIGNED FOR USE BY, OR ARE PRIMARILY USED BY CHILDREN OR ARE LOCATIONS WHERE CHILDREN CONGREGATE; PROVIDING FOR EXCEPTIONS TO THE PROHIBITION; DISTANCE MEASUREMENT; VIOLATIONS; PENALTIES; ENFORCEMENT; PREEMPTION AND SUNSET; CONFLICTS OF LAW; SEVERABILITY; CODIFICATION; SCRIVENER’S ERRORS AND AN EFFECTIVE DATE.

WALK-ON ITEM NO. 1 WAS PRESENTED DURNIG THE CEREMONIAL PRESENTATIONS

**WALK-ON ITEM NO. 1**

**1. ACTION REQUESTED/PURPOSE:**

Form-Based Code Institute’s 2011 Driehaus Form-Based Codes Award presentation to the Board.  
([#20110527](#)-COMMISSIONER BIGELOW)

Commissioner Bigelow presented three awards of the Form–Based Code Institute’s 2011 Driehaus Form-Based Codes Award to the Board, Management and Community Development Planners, and County Attorney’s Office. On behalf of the group, Community Development Director Mary Gibbs thanked the Board.

**COMMISSIONER ITEMS**

**NATIONAL ASSOCIATION OF COUNTIES’ (NACO) AWARD** – Commissioner Hall reported that NACO would be awarding Lee County the Achievement Award for Criminal Case Management and the designation of Best in the category of court administration and management. She informed that the award would be presented at the annual meeting in July 2011, and thanked all involved.

**BEAUTIFUL EAGLE** – Commissioner Bigelow commented that the sculpted eagle on the old oak tree is beautiful.

**MEMBER OF COUNTY STAFF RESIGNATION** – Commissioner Bigelow moved to request the County Attorney to make an inquiry into the resignation of a staff member. County Attorney Michael Hunt provided legal opinion during the discussion. Commissioner Judah informed that he had personally met with Mr. Wingard and confirmed that Mr. Wingard has chosen to leave the employment of Lee County. The motion died for lack of a second.

**COMMITTEE APPOINTMENTS**

Commissioner Manning moved to appoint Edward Seibert and Dana Briscoe Robinette to the **BOCA GRANDE HISTORIC PRESERVATION BOARD**, seconded by Commissioner Hall, called and carried.

Commissioner Judah moved to reappoint Michael Maloney to the **CORKSCREW ROAD SPECIAL IMPROVEMENT UNIT**, seconded by Commissioner Bigelow, called and carried.

COUNTY MANAGER ITEMS

Assistant County Manager Pete Winton noted [two \(2\) thank you letters](#) to be signed by the Chairman be sent to the Legislative Delegation members for working to preserve funding for Lee County projects. Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried.

COUNTY ATTORNEY ITEMS

County Attorney Michael Hunt had no items to be discussed.

The Chairman recessed the meeting until 5:00 p.m. The Chairman called the meeting back to order at 5:00 p.m. with all Commissioners present with the exception of Commissioner Hall who was excused due to a scheduling conflict. Commissioner Bigelow arrived at 5:15 p.m.

5:00 P.M. AGENDA ITEM - Public Hearing

1. ACTION REQUESTED/PURPOSE:  
Conduct a public hearing; adopt an ordinance amending the Land Development Code to update the Road Impact Fee Regulations set forth in Chapter 2 of the Code. ([#20110479](#)-COUNTY ATTORNEY)  
FUNDING SOURCE:  
N/A.  
WHAT ACTION ACCOMPLISHES:  
Satisfies statutory requirement to hold a public hearing to adopt an ordinance that does not affect the list of permitted uses within a zoning district. If adopted, the Ordinance will establish a new fee schedule for road impact fees and amend Chapter 2 of the Code.  
MANAGEMENT RECOMMENDATION:  
Adopt the Ordinance.

Assistant County Attorney Michael Jacob approved, as to legal form and sufficiency, the Affidavit of Publication for this item, and briefly described the request. At the request of the Chair, Community Development Director Mary Gibbs provided an update on the Road Impact Fee Study and noted that the average decrease was 27% in Impact Fees due to lower construction cost and less travel because of economic conditions. Also, the Medical Impact Fees had been consolidated into the Office Impact Fee rate, resulting in a substantial permanent reduction. The Chairman called for public comment; and the following concerned citizens came forward:

- Realtor Association of Greater Fort Myers representative [Gary Verwitt](#)  
WCI Communities Planning, and Permitting Director [Barry Ernst](#)  
Lee Building Industry Association President [Dennis Cantwell](#)  
Cape Coral Industry Association representative [Heather Mazurkiewicz](#)  
Cape Coral resident [Marty McClain](#)  
Fort Myers resident [Ron Inge](#)  
Estero Council of Community Leaders representative [Don Eslick](#)  
Fort Myers resident [Bert Hamilton](#)  
Estero Council of Community Leaders representative [Jane McNew](#)  
Fort Myers resident [Jim Kinsey](#)  
Bike Walk Lee Coalition representative [Darla Letourneau](#)  
Fort Myers resident [Jim McMeneme](#)  
Sun Country Homes owner [Marion Briggs](#)  
Estero representative [Ed Paton](#)  
Fort Myers resident [Kate Gooderham](#)  
Fort Myers [Bob Himschoot](#)  
Alva resident [Richard Durling](#)  
Lee Building Industries Association Executive Vice President Michael Reitmann

At the request of Commissioner Manning, Ms. Gibbs reviewed the various committees’ recommendations. In response to Commissioner Judah’s request, Transportation Planning Manager Dave Loveland clarified the possibility of funding state roads. Commissioner Manning moved to amend the Impact Fee Ordinance as recommended by the consultant and county staff which includes the 27% reduction, the Medical Office consolidation and the High-Cube seconded by Commissioner Judah. Following brief comments by the Chair, the motion was called and carried, with Commissioner Hall absent. The Ordinance adopted by the Board and filed was [LEE COUNTY ORDINANCE NO. 11-06 ENTITLED:](#)



AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE, CHAPTER 2; ARTICLE VI, IMPACT FEES, DIVISION 2, ROADS IMPACT FEES. THE AMENDMENTS PROPOSE TO REVISE THE ROAD IMPACT FEE SCHEDULE IN ADDITION, REVISIONS ARE PROPOSED TO PROVISIONS GOVERNING THE REFUND OF FEES PAID, EXEMPTIONS, AND ROAD IMPACT FEE CREDITS.

Commissioner Manning noted that he would be at the FACC and would inquire about the 20 other Counties that have reduced their fees or have put a moratorium on Impact Fees, and would report back to the Board. There was Board consensus.

**5:05 P.M. AGENDA ITEM** - Public Hearing

1. **ACTION REQUESTED/PURPOSE:**  
Conduct first public hearing regarding an ordinance amending Lee County Land Development Code (LDC) Chapters 1, 2, 10, 12, 14, 22, 30, 33, and 34; Direct the proposed ordinance to a second public hearing on August 9, 2011 at 9:30 a.m. in the Commission Chambers. ([#20110482](#)-COUNTY ATTORNEY)  
**FUNDING SOURCE:**  
N/A.  
**WHAT ACTION ACCOMPLISHES:**  
Satisfies the Board policy to hold two public hearings to amend the LDC when a change to permitted or prohibited uses is proposed. If adopted, the regulations will establish Countywide standards.  
**MANAGEMENT RECOMMENDATION:**  
Approve.

Assistant County Attorney Michael Jacob approved as to legal form and sufficiency, the Affidavit of Publication for this item; and entered it into the record. Attorney Jacob noted that there was one amendment proposed by a citizen and Staff does not recommend approval, and requested Board to take that up now rather than the 2<sup>nd</sup> Hearing. The Chairman called for public input; and the following citizens came forward:

Attorney [Charles Basinait](#), with the Henderson, Franklin Law firm  
Pararons LLP representative [Tim Keene](#)  
Fort Myers resident [Jim Kinsey](#)  
Lehigh Acres resident and Frog’s Auto Repair owner [Roger Barger](#)  
Logic and Reason representative [Kim Hawk](#)  
Sun Country Homes owner [Marion Briggs](#)  
Verizon Wireless representative [Laura Belflower](#)  
Attorney [Neale Montgomery](#), of the Pavese Law firm

Following clarifying comments by Community Development Director Mary Gibbs, Commissioner Judah moved the item to the 2<sup>nd</sup> Public Hearing on August 9, 2011 at 9:30 a.m., seconded by Commissioner Manning, called and carried, with Commissioner Hall absent.

The Chairman adjourned the meeting at 6:30 p.m.

ATTEST:  
CHARLIE GREEN, CLERK

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

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