

OCTOBER 25, 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  
 Tammara Hall  
 Ray Judah

COMMISSIONER BRIAN BIGELOW WAS ABSENT FOR THE ENTIRE MEETING.

The Chairman called the meeting to order at 9:33 a.m. The Chairman requested our prayers and thoughts - The Invocation was given by Reverend John Dougherty, First Baptist Church of Fort Myers, followed by the Pledge of Allegiance.

### PRESENTATIONS

Commissioner Hall read and presented a Resolution conveying the Commissioners sincere appreciation to North Fort Myers Fire District Chief Terry Pye for his long-time service and recognizing his outstanding contributions to the citizens of Lee County and wishing him well in his retirement. Chief Pye accepted the Resolution and expressed appreciation to the Board for this recognition. ([#20110878](#)-Commissioner Hall)

Chairman Mann read and presented a Resolution recognizing Eden Autism Services for their 15 years of providing outstanding services to the children and adults with autism in Southwest Florida and urging all citizens to support this organization and its efforts to help individuals struggling with autism. Elly Hagen accepted the Resolution on behalf of the teachers and students, and expressed appreciation to the Board for this recognition. ([#20110879](#)-Commissioner Mann)

### ANNOUNCEMENTS

Referring to the Agenda Recap Sheet dated October 25, 2011, the Chairman announced that:

Consent Agenda 1A should include the following language to the **BACKGROUND:** In support of the full funding for the Bob Janes Triage Center: Restore State funds originally committed to fulfill the three year grant awards made in November 2010 for the Criminal Justice, Mental Health and Substance Abuse Reinvestment Grant. The annual amount of funding that DCF committed during the competitively procured statewide program is \$3,000,000.00

Lee County applied for an expansion grant and was awarded \$250,000.00 per year for a three year period or a total of \$750,000.00. These funds were competitively procured and support the operations of the Bob Janes Triage Center which is a pre-arrest jail diversion program which targets low level offenders. The program demonstrates a cost benefit and positive outcomes for participants.

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

Consent Agenda 6A should include a budgeted amount indicated in the backup material originally submitted which has been modified as follows: A new project for SWFAS, titled Chrysalis Peer Support Community was originally budgeted for \$28,520.00. This budgeted amount reflects only the first year's submission; this HUD grant allows for up to three years of funding to be requested. Therefore, the amount has been increased to \$89,733 to reflect a three year budget.

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

Walk-on Item No. 3 should include the following language in the FUNDING SOURCE: Funding the maintenance and protection service agreements for the Toro product will come from the general operating expenses of Parks & Recreation.

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

Three Walk-On Items would be heard at the appropriate time in the agenda.

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

- Walk-On 1 – [Phil Buchanan](#) representing the GPICA
- A14A - [Attorney Jim Humphrey](#), representing the Town of Fort Myers Beach
- A14A - Fort Myers Beach resident [Sam Lurie](#)
- A14A – Fort Myers Beach resident [Karen Swanbeck](#)
- A14A – Fort Myers Beach resident [Sallie Seabury](#)
- A14A – Fort Myers Beach resident [Jean Gottlieb](#)
- A14A – Fort Myers Beach resident [Mark LaFave](#)
- A14A –Fort Myers Beach resident [Pat A. Smith](#)
- A14A –Fort Myers Beach resident [Garr Reynolds](#)
- A14A –[Al Durrett](#) representing Fish Tale Marina & Santini Marina Plaza
- A14A –Fort Myers Beach resident [M. Katie Corning](#)
- A14A –Fort Myers Beach resident [Barbara Hill](#)
- A14A –Fort Myers Beach resident [Leroy Hommerding](#)
- A14A –Fort Myers Beach resident [Ed Scott](#)
- A14A –Fort Myers Beach resident [Bobbi Kemp](#)
- A14A –Fort Myers Beach resident [Charlie Whitehead](#)
- A14A - [Attorney Anne Dalton](#), representing the Fort Myers Beach Library District
- A14A –Fort Myers Beach resident [Paul Martin](#)
- A14A –Fort Myers Beach resident [Jim Stevens](#)
- A14A –Fort Myers Beach resident [Bob Miller](#)
- A14A –Fort Myers Beach resident [Cletus Poser](#)
- Walk-On 1 – [Pete Quasius](#)

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

- Commissioner Hall –16A
- Commissioner Manning – None
- Commissioner Judah -1A
- Commissioner Mann –10A, 10B

**CONSENT AGENDA**

**1. COUNTY ADMINISTRATION**

- A) **ACTION REQUESTED/PURPOSE:**  
Approve proposed Lee County 2012 Legislative platform and request placement on the November 8, 2011 Lee County Delegation meeting agenda. ([#20110880](#)-COUNTY MANAGER)
- FUNDING SOURCE:**  
N/A.
- WHAT ACTION ACCOMPLISHES:**  
Approves preliminary 2012 Legislative platform and requests placement on the Lee County Legislative Delegation agenda.

**PULLED FOR DISCUSSION**

Commissioner Judah noted the need to place the septic tank repeal item on the list being prepared by Lee County’s Legislative Delegation and asked for a comprehensive overview and report on the number of septic tanks in Lee County. Commissioner Judah moved to approve the item as amended with the request for overview by the Legislature, seconded by Commissioner Manning, called and carried with Commissioner Bigelow absent. .

**2. COMMUNITY DEVELOPMENT**

- A) **ACTION REQUESTED/PURPOSE**  
Amend existing contracts under SHIP (State Housing Initiatives Partnership Program as follows:  
[Habitat for Humanity of Lee County, Inc.](#)
- Increase [contract C-5630](#) with Habitat for Humanity of Lee County, Inc by \$30,000 (\$169,000 to \$199,000), change the project scope for the acquisition/rehabilitation/resale of single family houses for 5 households (for 2 very low and 3 low income) to 6 households (2 very low and 4 low

income) and extend it from October 31, 2011 to December 16, 2011.

- Extend contract C-5462 from October 31, 2011 to December 16, 2011.

[Lee County Housing Development Corp.](#)

- Extend contract [C-4736](#) from October 31, 2011 to December 16, 2011.

[\(#20110851-COMMUNITY DEVELOPMENT\)](#)

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

**B) ACTION REQUESTED/PURPOSE:**

Approve an [Interlocal Agreement](#) with the Town of Fort Myers Beach for development review, building plan review and building inspection services in the amount of \$44,636.00 annually, for a maximum of two years (October 1, 2011 through September 30, 2013) payable on a monthly basis. [\(#20110863-COMMUNITY DEVELOPMENT\)](#)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Provides the Town with building permit plan review and inspections and, as needed, review of development orders.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**3. CONSTRUCTION AND DESIGN**

No requests received.

**4. COUNTY COMMISSIONERS**

No requests received.

**5. COUNTY LANDS**

No requests received.

**6. HUMAN SERVICES**

**A) ACTION REQUESTED/PURPOSE:**

1) Approve submission of Lee County's HUD Fiscal Year 2011 Homeless Continuum of Care, Supportive Housing Program, and Shelter Plus Care Program applications. 2) Authorize the Board to sign [HUD declarations, certifications, and other forms](#) related to the application. [\(#20110829-HUMAN SERVICES\)](#)

**FUNDING SOURCE:**

Fund: US Department of Housing and Urban Development (HUD).

Program: Shelter Plus Care and Supportive Housing Program.

Project: Various Lee County and Subrecipient Agency Projects providing assistance to individuals and families who are homeless.

**WHAT ACTION ACCOMPLISHES:**

Allows Lee County to apply for funds to continue to assist people who are homeless.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**7 INDEPENDENT**

**A) ACTION REQUESTED/PURPOSE:**

Approve purchases of Maintenance, Repair and Operations (MRO) Products from Home Depot, under Project No. N-110498 in accord with the rebate program offered by Home Depot. The County will receive an annual rebate of 3% based on its overall purchases. [\(#20110808-PROCUREMENT MANAGEMENT\)](#)

**FUNDING SOURCE:**

Various Departments. Purchases will be made based upon available budgeted funds for the specific department. Any purchases above \$100,000 will be formally presented to the Board for approval.

**WHAT ACTION ACCOMPLISHES:**

Provides another option for Departments and Divisions to purchase MRO product on an as-needed basis.

**MANAGEMENT RECOMMENDATION:**

Approve as stated.

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

**8. NATURAL RESOURCES/SOLID WASTE**

No requests received.

**9. PARKS AND RECREATION**

No requests received.

**10. PUBLIC SAFETY**

**A) ACTION REQUESTED/PURPOSE:**

Approve the automatic renewal of [Contract No. 4624](#) and the new Service Agreement with Motorola, Inc., for Maintenance and Support for Premier Computer Aided Dispatch (CAD) and Premier Mobile Data Computer (MDC), in the amount of \$218,788.00 for a period of one (1) year, effective October 1, 2011 to September 30, 2012. ([#20110806](#)-PUBLIC SAFETY)

**FUNDING SOURCE:**

Fund – General Fund; Program – Public Safety – Information Resources; Project – Communication Maintenance.

**WHAT ACTION ACCOMPLISHES:**

Provides the Public Safety Division continued maintenance services and support for the Premier CAD and Premier MDC System used by Emergency Communications Dispatch.

**MANAGEMENT RECOMMENDATION:** Approve.

**PULLED FOR DISCUSSION**

Commissioner Mann expressed frustration with being locked into the Motorola Agreement and Public Safety Director John Wilson explained that the dispatching system covered under this contract was currently under consideration for replacement, with the sheriff and Department of Public safety looking at new options. Commissioner Manning moved approval, second by Commissioner Hall, called and carried with Commissioner Mann voting nay and Commissioner Bigelow absent.

**B) ACTION REQUESTED/PURPOSE:**

Approve and authorize Chair to execute an [Agreement](#) with Fishers of Men Lutheran Church (10300 Stringfellow Road, St. James City) for temporary use of their property for emergency response, relief and recovery efforts. The term is for a period of five (5) years with the option for the Parties to mutually renew same for an additional five (5) years. ([#20110853](#)-PUBLIC SAFETY)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Authorizes Lee County temporary use of Fishers of Men Lutheran Church property for emergency relief and recovery efforts.

**MANAGEMENT RECOMMENDATION:**

Approve.

**PULLED FOR DISCUSSION**

Commissioner Mann expressed appreciation to the Board to Fishers of Men Lutheran Church and other entities for allowing use of portions of their facilities at no cost to the County during County emergency situations. Commissioner Manning moved approval, seconded by Commissioner Judah, called and carried with Commissioner Bigelow absent.

- C) **ACTION REQUESTED/PURPOSE:**  
 Approve, and authorize Chair to execute, an [Agreement](#) with Covenant Community Ministries (940 Tarpon Street, Fort Myers) for temporary use of their property for emergency response, relief and recovery efforts. The term is for a period of five (5) years with the option for the Parties to mutually renew same for an additional five (5) years. ([#20110854](#)-PUBLIC SAFETY)  
**FUNDING SOURCE:**  
 N/A  
**WHAT ACTION ACCOMPLISHES:**  
 Authorizes Lee County temporary use of Covenant Community Ministries property for emergency relief and recovery efforts.  
**MANAGEMENT RECOMMENDATION:**  
 Approve.

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

- D) **ACTION REQUESTED/PURPOSE:**  
 Approve [transfer](#) from Government Communications Network (GCN) Reserves in the amount of \$31,511. ([#20110856](#)-PUBLIC SAFETY)  
**FUNDING SOURCE:**  
 Government Communications Network (GCN) Reserves.  
**WHAT ACTION ACCOMPLISHES:**  
 Provides budget for the upgrade of the EOC tower.  
**MANAGEMENT RECOMMENDATION:**  
 Approve.

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

**11. PUBLIC WORKS ADMINISTRATION**

No requests received.

**12. TRANSPORTATION**

No requests received.

**13. UTILITIES**

No requests received.

**14. COUNTY ATTORNEY**

- A) **ACTION REQUESTED/PURPOSE:**  
 Direct the proposed amendments to the Land Development Code to two public hearing as follows:  
 First Public Hearing: December 13, 2011 at 5:00 P.M.  
 Second Public Hearing: January 10, 2012 at 9:30 A.M.  
 ([#20110860](#)-COUNTY ATTORNEY)  
**FUNDING SOURCE:**  
 N/A.  
**WHAT ACTION ACCOMPLISHES:**  
 Satisfies the Board policy to hold two public hearings to amend the LDC. If adopted, the Ordinance will adopt amendments to the Land Development Code.

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

- B) **ACTION REQUESTED/PURPOSE:**  
Direct the Lee County Secondary Metals Recyclers Ordinance to public hearing on November 8, 2011 at 9:30 a.m. in the Board Chambers at Old Lee County Courthouse, 2120 Main Street, Fort Myers.  
(#20110868-COUNTY ATTORNEY)  
**FUNDING SOURCE:**  
N/A.  
**WHAT ACTION ACCOMPLISHES:**  
Establishes a public hearing date for the adoption of a new county-wide ordinance regulating the transactions involving the sale and purchase of metal products to metal recycling entities.  
**MANAGEMENT RECOMMENDATION:**  
Set public hearing for Tuesday, November 8, 2011.

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

**15. HEARING EXAMINER**

No requests received.

**16. CONSTITUTIONAL OFFICERS**

- A) **ACTION REQUESTED/PURPOSE:**  
Present for information purposes interim reporting on selected financial activity and provide an update on the economic changes in today's market (see background information). (#20110873-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, and Chapter 318.18(13)(a), Florida Statutes and Lee County Ordinance 04-09 activity for the State Court Facilities Funds Collected.  
**MANAGEMENT RECOMMENDATION:**  
The purpose of this report is to convey to you the financial status of selected significant funds of the Lee County Board of County Commissioners, the status of specific revenues and expenditures as of the stated dates, and the market value of investments managed by the Clerk's Office on behalf of the Board

**PULLED FOR DISCUSSION**

Commissioner Hall commented on the interim report from the Clerk on selected financial activities, noted significant cuts made during the budget process, and expressed thanks to the Administrative Staff and the Clerk's office for sound investment strategies made during the ongoing economic downturn, keeping the County on a good financial course.

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

- B) **ACTION REQUESTED/PURPOSE:**  
Approve [disbursements](#). The check and wire registers may be viewed on the Clerk's Website at WWW.LEECLERK.ORG by accessing the BOCC Minutes and Documents Link. (#20110874-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 Manning moved approval, seconded by Commissioner Judah, called and carried with Commissioner Bigelow absent.

**C) ACTION REQUESTED/PURPOSE:**

Approve the Minutes for the following meetings of the Board of County Commissioners held during the week of October 10 through October 14, 2011.

October 11, 2011 (Regular)

(#20110875-MINUTES)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Approval of the Board Minutes, pursuant to Florida Statute 286.011.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**D) ACTION REQUESTED/PURPOSE:**

Approve disbursement of excess funds resulting from the sale of tax deed certificates to a claimant verified and certified under Florida Statutes 197.582.

<b><u>Tax Deed Number</u></b>	<b><u>Payee</u></b>	<b><u>Amount</u></b>
2009-000463	Home Servicing LLC	\$ 4,758.17
2009-005992	Linda Gail Pierce	\$ 103.22
2010-001194	Jose Escobar	\$ 174.33
2010-001194	Yeny Mejia	\$ 174.32
2010-002337	Phillip E. Goodson, Jr.	\$ 133.57

(#20110876-DELINQUENT TAX)

**FUNDING SOURCE:**

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

**WHAT ACTION ACCOMPLISHES:**

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

**MANAGEMENT RECOMMENDATION:**

Approve disbursement to identified claimant.

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

**E) ACTION REQUESTED/PURPOSE:**

Approve disbursement of excess funds resulting from the sale of tax deed certificates to a claimant verified and certified under Florida Statutes 197.582.

<b><u>Tax Deed Number</u></b>	<b><u>Payee</u></b>	<b><u>Amount</u></b>
2007-000264	Michael Botkin c/o Clark Law Firm	\$12,109.03
2010-000518	Wells Fargo Bank, NA c/o Marsa S. Beck Taylor, Day, Currie, Boyd & Johnson	\$51,751.53

(#20110877-DELINQUENT TAX)

**FUNDING SOURCE:**

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

**WHAT ACTION ACCOMPLISHES:**

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

**MANAGEMENT RECOMMENDATION:**

Approve disbursement to identified claimant.

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

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

No requests received.

Following a short break, the Chairman called the meeting back to order with all Commissioners present with the exception of Commissioner Bigelow who absent from the entire meeting.

**ADMINISTRATIVE AGENDA**

**1. COUNTY ADMINISTRATION**

No requests received.

**2. COMMUNITY DEVELOPMENT**

No requests received.

**3. CONSTRUCTION AND DESIGN**

No requests received.

**4. COUNTY COMMISSIONERS**

No requests received.

**5. COUNTY LANDS**

No requests received.

**6. HUMAN SERVICES**

No requests received.

**7. INDEPENDENT**

No requests received.

**8. NATURAL RESOURCES/SOLID WASTE**

No requests received.

**9. PARKS AND RECREATION**

No requests received.

**10. PUBLIC SAFETY**

No requests received.

**11. PUBLIC WORKS ADMINISTRATION**

No requests received.

**12. TRANSPORTATION**

No requests received.

**13. UTILITIES**

No requests received.

**14. COUNTY ATTORNEY**

**A) ACTION REQUESTED/PURPOSE:**

Determine appropriate course of action on the request of the Town of Fort Myers Beach for oversight review under FS §189.428 concerning the Fort Myers Beach Public Library District; direct County staff to act in accordance with the Board's decision.

[\(#20110869-COUNTY ATTORNEY\)](#)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Provides a response to the Town of Fort Myers Beach's request for oversight review.

Following comments by Commissioner Judah, County Attorney Michael Hunt opined that in accordance with rulings of the Joint Legislative Committee, the oversight review does not fall within the Board’s purview. Chairman Mann added that the Board is amenable to acting as a catalyst, but could not render a decision or be involved in any decision made on this particular issue. Commissioner Judah moved to table the item, seconded by Commissioner Manning, called and carried with Commissioner Bigelow absent. .

**15. HEARING EXAMINER**

No requests received.

**CONSTITUTIONAL OFFICERS**

**16.**

No requests received.

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

No requests received.

**9:30 AGENDA ITEM – Public Hearing No. 1:**

**ACTION REQUESTED/PURPOSE:**

Consider the recommendations of Special Magistrate Simon M. Harrison, issued in response to the Request for relief filed on behalf of the Petitioner, Thirty-One, LLC, with regard to the rezoning of Thirty-One, LLC, in reference to Caloosa Palms Mixed Planned Developments. [\(#20110835-COUNTY ATTORNEY\)](#)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Allows the Board to accept, reject or modify the recommendation of the Special Magistrate. In the event the Board rejects the recommendation, Petitioner can move forward to pursue judicial relief of the zoning denial.

Assistant County Attorney John Fredyma approved as to legal form and sufficiency the [Affidavit of Publication](#) for this item and entered it into the record. He reviewed the item, the recommendation of the Special Magistrate Proceeding and Summary, and the request of the Petitioner. Attorney Matt Uhle, representing the Petitioner, updated the Board on the recommendations of the Special Magistrate and stated amended proposals of the Petitioner: a continuing care facility consisting of assisted living facility and independent living facility uses, and to remove from the proposal all commercial ancillary uses of the proposed marina, other than the boat slip rentals. The Chairman called for public input and the following citizens came forward:

- [Ed Kimball](#) representing the Caloosahatchee Shores Planning Committee
- [Rosalie Prestari](#)
- [Janet Tripp](#)

Zoning Director Pam Houck responded to Commissioner Judah’s question regarding density increase, stating there would be no increase. Assistant County Attorney Susan Henderson, representing the Board in the ongoing litigation, stated such litigation would not impact on the pending comprehensive plan amendment. Commissioner Manning moved to accept the Special Magistrate’s recommendation, the motion failed due to lack of a second. Attorney Uhle re-stated the amended proposal. Commissioner Manning moved for concurrence with the recommendations of the Special Magistrate and staff with the amendment by the petitioner, seconded by Commissioner Mann, called and carried with Commissioner Bigelow absent. [RESOLUTION No. Z-10-014A](#)

**9:30 AGENDA ITEM – Public Hearing No. 2:**

**ACTION REQUESTED/PURPOSE:**

Conduct a Public Hearing and consider the adoption of amendments to Ordinance 11-03, relating to “Garbage, Recycling and Solid Waste Collection and Disposal for Lee County”. (#20110861-SOLID WASTE).

**FUNDING SOURCE:** Amendments will have an adverse impact to the Solid Waste Enterprise Fund. Additional costs for services to specified properties will be paid by business and multifamily properties.

**WHAT ACTION ACCOMPLISHES:**

If ordinance is adopted, an extended grand-fathering period will be established to allow certain private companies to collect recoverable materials from specified mobile home and recreational vehicle parks. Additionally, specified properties will receive certain collection services at no additional fees.

**MANAGEMENT RECOMMENDATION:**

Management endorses the existing ordinance.

Assistant County Attorney Andrea Fraser approved, as to legal form and sufficiency, the [Affidavit of Publication](#) for this item, and briefly described the request. Applicant Marilyn Miller requested a deferral to allow for a full board. The Chairman called for public input and the following citizens came forward:

- [Barbara J. Oliveira](#) Association Manager of Tamiami Village
- [Larry Murphy](#)
- [Ian Stewart](#), representing the Indian Creek Scholarship Fund
- [David Danielson](#)

Following the conclusion that this issue needed to be reviewed by the full Board, Commissioner Manning moved approval to defer to a date certain of November 15<sup>th</sup> and to re-advertise, seconded by Commissioner Judah for discussion, the motion was called and carried with Commissioner Bigelow absent.

**9:30 AGENDA ITEM – Public Hearing No. 3**

**ACTION REQUESTED/PURPOSE:**

Consider granting of a revision to the current Bonita Springs Fire Control and Rescue District Certificate of Public convenience and Necessity (COPCN) that would allow them to provide advance life support (ALS) transport service in addition to their current ALS non-transport service (#20110867-PUBLIC SAFETY)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Grants the applicant license to provide ALS transport service in accordance with State Law and provisions contained in Lee County Ordinance No. 08-16.

**MANAGEMENT RECOMMENDATION:**

Management recommends not granting the revised certificate for reasons listed in the attached documentation.

Assistant County Attorney Andrea Fraser approved, as to legal form and sufficiency, the [Affidavit of Publication](#) for this item, and briefly described the request. The Chairman called for public input and the following citizens came forward:

- In Favor of:**
- [Nicholas Araica](#)
  - [Deputy Chief Joe Daigle](#)
  - [Ed Fitzgerald](#)
  - [Fred Forbes](#)
  - [Chief Phil Kinsey](#)

[Commissioner Steve Lohan](#)  
[Joe Mazurkiewicz](#)  
[Dr. Alex Rodi](#) representing the Bonita Fire District  
[Mayor Ben Nelson](#)  
[Christine Ross](#) representing the Bonita Springs Chamber of Commerce  
 Fort Myers resident [George Wheaton](#)

**Against:**  
 Buckingham resident [Gordon Brandt](#)  
 Lehigh Acres resident [Kevin Geren](#)  
[Dr. Dean Goldberg](#) representing Lee Memorial Health System  
[Sonny Haas](#)  
[Jonathan Henderson](#), representing Lee County EMS  
[Dr. Charles Krivenko](#), representing Lee Memorial Health System  
 Estero resident [Larry Newell](#)  
 Fort Myers resident [Scott Standley](#)  
 Fort Myers resident [Curt Vokoun](#)  
[Philip Petit](#)  
[Ken Skaggs](#)

Subsequent to further comments by Lee County EMS Chief Kim Dickerson and Public Safety Director John Wilson, the Commissioners concurred that the statistics presented by both sides differed significantly; that they have concerns over the impact that granting the requested revision could have on the current EMS Business Model for services provided within the entire County, and that the patient needing the most expedient transport available is primary. Responding to questions regarding retainer of a Special Magistrate to hear the presentation of both sides, to include all of the present parties and the general public, Deputy County Attorney Andrea Fraser specified that the Ordinance calls for a public hearing and that hiring a Special Magistrate for the stated purpose would result in both sides presenting accurate data via a public forum, followed by the Board receiving a report of the findings and recommendations of the Special Magistrate, and concluding with an additional public hearing for the Board to render its final decision. Ms. Fraser stated that the cost would be the responsibility of the County and her office will provide the County Administrator with a cost estimate. Commissioners Hall and Manning left the Chambers briefly during discussion on this item. Commissioner Judah moved to move forward as indicated, seconded by Commissioner Manning, called and carried with Commissioner Bigelow absent.

**WALK-ON ITEM NO. 1**

**ACTION REQUESTED/PURPOSE:**

Approve a County Resolution initiating the Florida Government Conflict Resolution Act required by Florida Statutes, Chapter 164, and appropriate legal action against the City of Cape Coral for failing to comply with the terms and conditions of the Second Amended Consent Order No. 03-2345-DF relating to the Ceitus Boatlift. ([#20110891](#)-COUNTY ATTORNEY)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Prior to initiating any legal action, Lee County must comply with the requirements of the Florida Governmental Conflict Resolution Act, Chapter 164, Florida Statutes. If the parties cannot resolve the conflict pursuant to the Act, the County Attorney’s Office will need to proceed with appropriate legal action for compliance with the terms and conditions of the Consent Order.

**MANAGEMENT RECOMMENDATION:**

Approve Resolution in order to comply with the requirements of Chapter 164, Florida Statutes.

**REASON FOR WALK ON:**

In order to make litigation deadlines we are requesting Blue Sheet No. 20110891 be heard as “Walk On” for October 25, 2011.

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

**RESOLUTION NO.11-10-21**

**WALK-ON ITEM NO. 2**

**ACTION REQUESTED/PURPOSE:**

To establish Employer and Retiree premium contributions for the United Health Care Medicare Advantage Plan approved by the Board on October 18, 2011. ([#20110888-HUMAN RESOURCES](#))

**FUNDING SOURCE:**

Employee / Employer Health Plan Fund.

**WHAT ACTION ACCOMPLISHES:**

Sets the contribution rates for the new fully-insured plan for all Medicare eligible retirees.

**MANAGEMENT RECOMMENDATION:**

Approve.

**REASON FOR WALK ON:**

Necessary in order to have a firm decision to announce to retirees during annual Open Enrollment, which is scheduled to take place 11-2 thru 12-7-2011.

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

**WALK-ON ITEM NO. 3**

**3. ACTION REQUESTED/PURPOSE:**

Approve the following purchases to allow Parks & Recreation to purchase the equipment necessary to maintain the fields at the new JetBlue Park and provide equipment maintenance for all Toro equipment currently owned by Parks & Recreation([#20110897](#)):

(A) \$382,087.67 for Negotiation N-120022, Toro Equipment for Parks and Recreation to be obtained from WescoTurf to maintain the fields at the new JetBlue Park.

(B) \$33,581.48 combined total for three Turfco Mete-R-Matic top dressers from Golf Ventures, two model # XL and one model #IV off Florida State Contract #760-000-10-1.

(C) \$12,500 based upon the open market pricing for the procurement of one used Komatsu fork lift from W.E. Johnson (local vendor).

(D) \$16,468.75 for a new 2009 Redexim Veri-Drain Aerator from Golf Ventures, which includes the addition of two extra sets of coring tines and one extra set of solid tines.

(E) \$64,000.00 (not-to-exceed this amount) for eight EZ-GO utility vehicles. (Vendor to be determined through an informal quote process)

(F) \$75,258.82 for two New Holland tractors model #T4020 from the Florida Sheriff's Contract #11-19-0907.

(G) \$34,717.25 for one Wacker roller model # RD27-120 from All Star Equipment (local vendor).

(H) \$123,135 for the negotiated Service and Maintenance agreements for the newly acquired equipment and for the balance of Toro equipment utilized by Parks and Recreation for the maintenance of ball fields.

Approve a [budget transfer](#) from vehicle replacement reserves in the amount of \$618,613.97 for the purchase of the equipment (Items A-G).

Total Expenditure for the Equipment and the Service Agreement \$741,748.97.

**FUNDING SOURCE:**

Fleet Vehicle Replacement Fund (Equipment).

Parks & Recreation General Fund Professional and Amateur Sports (Service and Maintenance Agreement). **Funding for the maintenance and protection service agreements for the Toro product will come from the general operating expenses of Parks & Recreation**

**WHAT ACTION ACCOMPLISHES:** Allows Parks & Recreation to obtain equipment to maintain the fields at the JetBlue Park and to provide adequate equipment maintenance for all Toro equipment currently owned by Parks & Recreation.\

**RECOMMENDATION:** Approve.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, CHAIRMAN MANN ANNOUNCED THAT: WALK-ON ITEM NO. 3 SHOULD INCLUDE THE FOLLOWING language in the FUNDING SOURCE: Funding the maintenance and protection service agreements for the Toro Product will come from the general operating expense of Parks & Recreation.

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

### COMMISSIONER ITEMS

R&R FOR U.S. TROOPS- Commissioner Hall expressed gratitude to all participants helping to plan for 4 days of R&R for combat wounded active duty soldiers and their families from Fort Benning, GA, including the Fort Myers Beach American Legion, Fort Myers Beach VFW and Lee County Office of Veterans Affairs for working with area businesses to help make this happen. She expressed special thanks to the Pink Shell Resort, Fort Myers Beach for its generous donation made on behalf of the soldiers.

UPDATE- Commissioner Manning noted the movement by the Florida Association of Counties to challenge recent Legislation on the pre-emption of local governments from Legislation regarding gun laws.

GASPARILLA BRIDGE AUTHORITY REQUEST - Commissioner Manning requested a bluesheet for a request by the Gasparilla Bridge Authority for assistance from Lee County on a short-term loan, backed by the Florida Association of Counties, for planned improvements. Assistant County Manager Pete Winton advised that staff would bring the item to the Board on a Bluesheet for action at the November 15, 2011 Board meeting.

CONGRATULATIONS-Commissioner Judah extended congratulations to Lee-Tran for recently receiving a \$13,900,000.00 grant from the Federal Transit Administration toward the purchase of 24 new hybrid buses.

### COMMITTEE APPOINTMENTS

Commissioner Manning moved to appoint Frank Reynolds to the **CONSTRUCTION LICENSING COMMITTEE**, Jarrett Eady to the **BLACK AFFAIRS COMMITTEE**, (RESOLUTION NO. 11-10-14), Mildred Marie Schindler to the **HUMAN SERVICES COMMITTEE** and for the reappointment of Carmen Rey-Gomez to the **HISPANIC AFFAIRS COMMITTEE** ([RESOLUTION NO. 11-10-15](#)), seconded by Commissioner Hall, called and carried with Commissioner Bigelow absent.

Commissioner Mann requested a motion for the reappointment of Mariah Wise to the **HUMAN SERVICES COUNCIL**. Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried with Commissioner Bigelow absent.

Commissioner Judah moved for the reappointment of Toni Ferrell to the **HISTORIC PRESERVATION COMMITTEE**, Steven P. Kushner of Becker & Poliakoff, to the **EXECUTIVE REGULATORY OVERSIGHT COMMITTEE**, Roger Strelow to the **LOCAL PLANNING COMMITTEE**, and to rescind the appointment of Stephanie Kolenut, seconded by Commissioner Manning, called and carried with Commissioner Bigelow absent...

### COUNTY MANAGER ITEMS

Referring to the proposal from National Swimming Center Corp. for use of the City of Palms Park as a swim center complex, Assistant County Manager Pete Winton discussed hiring a third party with expertise in this area of business to review the Business Plan submitted by the Swim Center, and indicated the cost for the third party review would be paid from County Reserves.

### COUNTY ATTORNEY ITEMS

County Attorney Michael D. Hunt had no items for discussion.

### **Public Presentation of Matters by Citizens:**

Fort Myers resident [Jeff Keller](#) expressed concern regarding ordinances preventing him from selling fresh produce on county roadsides. Chairman Mann referred Mr. Keller to County Manager Karen Hawes for assistance with his concern.

The Chairman adjourned the meeting at 2:01 P.M.

ATTEST:  
CHARLIE GREEN, CLERK

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Deputy Clerk

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[Chairman, Lee County Commission](#)