

MAY 03, 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  
A. Brian Bigelow  
Ray Judah  
Tammara Hall

The Chairman called the meeting to order at 9:30 a.m. A moment of silence was requested for former Sanibel Mayor Carla Brooks Johnston, followed by an Invocation from Reverend Dennis Gingerich of Cape Christian Fellowship, and the Pledge of Allegiance. Later in the meeting, it was announced that there would be a memorial service for recently deceased Conservation 20/20 member Joanne Fowler, at her family ranch in Alva on Saturday May 7 at 11 a.m.

### PRESENTATIONS (HEARD IN REVERSE ORDER)

Commissioner Mann read and presented a Ceremonial Resolution proclaiming the month of May 2011 as Amyotrophic Lateral Sclerosis (ALS) Awareness Month in Lee County and recognizing the research being done to eradicate this horrible disease. Southwest Florida ALS Association Florida Chapter Care Coordinator Patti Stanco, ALS Clinic Director Alan Cunningham, and Hilde Heard accepted the Resolution; and requested community support for bringing more awareness to this devastating disease. (#20110328-Commissioner Mann)

Commissioner Hall read and presented a Ceremonial Resolution extending greetings and best wishes to all observing May as Trauma Awareness Month. Lee Memorial trauma physician Dr. Robert O'Conner, along with trauma survivor (Damon) Dan Meyer and trauma survivor parent Scott Grant accepted the Resolution, and each expressed heartfelt gratitude for and encouraged support of this lifesaving program. (#20110336-Commissioner Hall)

### ANNOUNCEMENTS

Referring to the Agenda Recap Sheet dated May 3, 2011, the Chairman announced that:

Consent Agenda Item 7A should be deferred until May 10, 2011 to allow further review.

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

Consent Agenda Item 5A should be moved to the Administrative Agenda to allow for further discussion.

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

One Walk-On Item 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)

Each of the following speakers expressed support for Item A5A, which was moved from the Consent to the Administrative Agenda under the Recap items.

Caloosahatchee River Citizens Association, Collier County Audubon and The Snook Foundation  
representative Pete Quasius

U. S. Fish and Wildlife Service Biologist Kim Dryden

Audubon of Florida, Collier County Audubon Society representative Brad Cornell

Conservancy of Southwest Florida representative Jennifer Hecker

Estero resident Nick Batos

Estero Council of Community Leaders representative Don Eslick

Attorney Steve Hartsell of the Pavese Law Firm representing Coral Creek LLC

Edison Farms/Agripartners representative Jason Wagner

Brooks Concerned Citizens representative Phil Douglas

Realtor Association of Fort Myers and the Beach representative [Stephanie Keyes](#) Conservation Land Acquisition and Stewardship Advisory Committee (CLASAC), member [George Wheaton](#).

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

- Commissioner Bigelow – 13C
- Commissioner Judah - none
- Commissioner Mann - none
- Commissioner Manning - none
- Commissioner Hall - none

**CONSENT AGENDA**

**1. COUNTY ADMINISTRATION**

No requests received.

**2. COMMUNITY DEVELOPMENT**

**A) ACTION REQUESTED/PURPOSE:**

Authorize a one-time exception under the homeownership rehabilitation strategy of the SHIP plan to exempt [Contract C-5462](#) with Habitat from Humanity from recapture provisions. Also, extend contract C-5462 from May 31, 2011 to August 31, 2011. ([#20110325](#)-COMMUNITY DEVELOPMENT)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Allows the completion of the rehabilitation of Habitat homes that have tested positive for defective drywall.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**3. CONSTRUCTION AND DESIGN**

No requests received.

**4. COUNTY COMMISSIONERS**

No requests received.

**5. COUNTY LANDS**

**A) ACTION REQUESTED/PURPOSE:**

Direct Staff to move forward to negotiate the acquisition of 24 properties (B-List) approved by the Conservation Land Acquisition and Stewardship Advisory Committee (CLASAC); and direct Staff and CLASAC to continue with the willing seller nomination intake process to include the Board adopted (10/07) Initial Criteria Review only being completed on each nomination. ([#20110326](#)-COUNTY LANDS)

**FUNDING SOURCE:**

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

**WHAT ACTION ACCOMPLISHES:**

Provides Staff and CLASAC with specific direction on the use of current and future Conservation 20/20 acquisition funds.

**MANAGEMENT RECOMMENDATION:**

Approve.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: This item should be moved to the Administrative Agenda to allow for further discussion. Commissioner Bigelow moved approval, seconded by Commissioner Manning, called and carried with Commissioner Judah absent.

**6. HUMAN SERVICES****A) ACTION REQUESTED/PURPOSE:**

Approve [Program Substantial Amendment to the Lee County 2008 Annual Action Plan](#) for U.S. Department of Housing and Urban Development (HUD), and authorize Chair to sign related documents. ([#20110323](#)-HUMAN SERVICES)

**FUNDING SOURCE:**

HUD Housing Prevention and Rapid Re-Housing Program (HPRP).

**WHAT ACTION ACCOMPLISHES:**

Allows reallocation of funds to prioritized activities.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

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

Approve the Right of Entry and Use Agreement between FPL FiberNet and Lee County Board of County Commissioners.

([#20110324](#)-INFORMATION TECHNOLOGY GROUP)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Provides the County with completed 70+ miles of fiber optic network in return for allowing FiberNet access to spare County-owned fiber/conduit.

**MANAGEMENT RECOMMENDATION:**

Approve.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: Consent Agenda Item 7A should be deferred until May 10, 2011 to allow for further review. Commissioner Bigelow moved approval, seconded by Commissioner Manning, called and carried with Commissioner Judah absent.

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

Developer Contributed Asset: Approve final acceptance, by Resolution and recording of [one \(1\) utility easement](#), as a donation of a water main relocation, one potable water service, and one 6-inch diameter fire line, to provide water service and fire protection to Walgreens at Daniels Parkway and Palomino Lane #12722, a recently- redeveloped commercial development. This project is located at the northeast corner of Daniels Parkway and Palomino Lane. ([#20110307](#)-UTILITIES)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Provides adequate utility infrastructure to support development of the subject property, and complies with the Lee County Utilities Design Manual.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

[RESOLUTION NO. 11-05-01](#)**B) ACTION REQUESTED/PURPOSE:**

Developer Contributed Asset: Approve final acceptance, by Resolution, as a donation of an existing force main providing service to Florida Gulf Coast University f.k.a. Gulf Coast Center. Buckingham Road Force Main, Bird Road to Binet Road, located along Buckingham Road from Bird Road to Binet Road. ([#20110313-UTILITIES](#))

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Conveys ownership and maintenance of Buckingham Road Force Main, Bird Road to Binet Road force main to Lee County Utilities; and provides adequate utility infrastructure to support redevelopment of the subject property; and, complies with the Lee County Utilities Design Manual.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

[RESOLUTION NO. 11-05-02](#)**C) ACTION REQUESTED/PURPOSE:**

Approve, and authorize Chair to execute, a [Third Amendment to the Agreement](#) for a Temporary, Emergency Connection for Wastewater Disposal Services, between Lee County and Jamaica Bay West Associates, Ltd. (Jamaica Bay), for extending the temporary connection to Lee County Utilities for wastewater disposal services through May 31, 2012. ([#20110317-UTILITIES](#))

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Provides Jamaica Bay with additional time to resolve operational issues with its connection to Forest Utilities' sewage collection system. Agreements for use of Lee County Utilities facilities that are separate from routine connections must be approved by the Board of County Commissioners.

**MANAGEMENT RECOMMENDATION:**

Approve.

[PULLED FOR DISCUSSION](#)

Following a brief history of this item by Utilities Deputy Director Tom Hill, Commissioner Bigelow 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:**

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. ([#20110337-FINANCE](#))

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Florida Statute Chapter 136.06 (1) requires that all County disbursements be recorded in the Minutes of the Board.

**MANAGEMENT RECOMMENDATION:**

Compliance with the requirements of FS 136.06 (1).

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

**B) ACTION REQUESTED/PURPOSE:**

Approve the Minutes for the following meetings of the Board of County Commissioners held during the week of April 18 through April 22, 2011:

April 18, 2011 (Zoning)      April 19, 2011 (Regular)  
April 20, 2011 (Joint BoCC and Constitutional Officers)

(#20110338-MINUTES)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

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

**MANAGEMENT RECOMMENDATION:**

Approve.

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

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

No requests received.

**ADMINISTRATIVE AGENDA**

**1. COUNTY ADMINISTRATION**

No requests received.

**2. COMMUNITY DEVELOPMENT**

No requests received.

**3. CONSTRUCTION AND DESIGN**

No requests received.

**4. COUNTY COMMISSIONERS**

No requests received.

**5. COUNTY LANDS**

**A) ACTION REQUESTED/PURPOSE:**

Direct Staff to move forward to negotiate the acquisition of 24 properties (B-List) approved by the Conservation Land Acquisition and Stewardship Advisory Committee (CLASAC); and direct Staff and CLASAC to continue with the willing seller nomination intake process to include the Board adopted (10/07) Initial Criteria Review only being completed on each nomination. (#20110326-COUNTY LANDS)

**FUNDING SOURCE:**

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

**WHAT ACTION ACCOMPLISHES:**

Provides Staff and CLASAC with specific direction on the use of current and future Conservation 20/20 acquisition funds.

**MANAGEMENT RECOMMENDATION:**

Approve.

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT:

Consent Agenda Item 5A should be moved to the Administrative Agenda to allow for further discussion. Commissioner Bigelow moved approval, seconded by Commissioner Manning, called and carried with Commissioner Judah absent.

County Lands Acquisition Program Manager Robert Clemons responded to the question by Chairman Mann on a potential contractual partnership with the Trust for Public Lands (TPL), and also corrected a recent misleading media report. County Attorney Michael Hunt opined on the question by Chairman Mann on the binding of future Board members to any multi-year contract that may be approved by this current Board. Mr. Clemons addressed the County’s appraisal process, in response to public comment earlier in the meeting, and responded to Board questions and comments. Following further discussion on the process that would be followed should the County contract with TPL, and a recommendation by Commissioner Hall to review the current Ordinance in a workshop format with CLASAC members as to goals and objectives, Commissioner Judah moved approval, seconded by Commissioner Manning. The motion was called and carried after further brief discussion.

**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:**

Approve mediated settlement in case of Lee County v. Whang, et al., Case No. 10CA-83, parcels 190 and 191, Burnt Store Road Project. ([#20110316](#)-COUNTY ATTORNEY)

**FUNDING SOURCE:**

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

**WHAT ACTION ACCOMPLISHES:**

Settles all claims for condemnation of parcels 190 and 191.

**MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Manning moved approval, seconded by Commissioner Judah, 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.

**WALK-ON ITEM NO. 1****8. NATURAL RESOURCES/ SOLID WASTE****1. ACTION REQUESTED/PURPOSE:**

Reschedule the Public Hearing related to the consideration of amendments to County Ordinance 08-10 (flow control of recycling materials), currently scheduled for May 24, 2011 at 5:00 PM, to May 31, 2011 at 9:30 AM. ([#20110360](#)-SOLID WASTE)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Reschedules a Public Hearing agenda item.

**MANAGEMENT RECOMMENDATION:**

Approve.

**REASON FOR WALK ON:**

Necessary to reschedule due to a conflict with a Commissioner's schedule.

Commissioner Manning moved approval, seconded by Commissioner Judah. In response to a request by Commissioner Bigelow, Deputy Director for Solid Waste Keith Howard agreed to provide a working draft copy of the proposed Ordinance to the Board. The motion was called and carried.

**COMMISSIONER ITEMS**

**BUNCHE BEACH PADDLEBOARD FESTIVAL** – Commissioner Judah expressed the County's gratitude to Betsy Clayton and Parks and Recreation staffer Vicky Little and those additional staffers involved on a most successful recent Paddleboard event that highlighted the recreational offerings of Bunche Beach.

**PARKS AND RECREATION ATTAINMENT** - Commissioner Judah commended the entire Parks and Recreation staff and its Director Barbara Manzo on earning a 100% Standards of Excellence scoring accreditation.

**ACCOMPLISHMENTS OF CARLA BROOKS JOHNSTON** - Commissioner Bigelow provided some of the lesser known accomplishments of the recently deceased former Mayor of Sanibel, Ms. Carla Brooks Johnston, including her involvement with Reconnecting Lee and many other beneficial efforts.

**LEGISLATIVE UPDATE** – Commissioner Mann updated legislative items of interest to Lee County, following his recent visit to Tallahassee:

- Fertilizer Ordinance may not pass; however the House has strongly suggested grandfathering Lee and similar counties if it should pass.

- Mining language in a Bill affecting only Lee County has been stricken thanks to Rep. Gary Aubuchon with the support of Rep. Trudy Williams and Rep. Matt Caldwell; however, the Bill itself still may not pass.

- Septic tank legislation is still undecided. One of the two approaches would leave Lee County some ability to regulate requirements; however, the most favored approach is to abolish the Bill which would take Lee back to the place it was in two years ago.

- Funding on the Estero Bay Aquatic Preserve appears to be salvaged, thanks to Rep. Trudy Williams.

**THANK YOU LETTER** - Commissioner Mann referenced a gracious letter of appreciation from the stepfather of Gordon (Booch) DeMarchi, thanking the County for their tributes to his son throughout his illness.

**COMMITTEE APPOINTMENTS**

Commissioner Manning moved to re-appoint John Paul Bourgoïn to the **GASPARILLA ISLAND MUNICIPAL SERVICE BENEFIT UNIT**, seconded by Commissioner Judah, called and carried.

Commissioner Hall moved to appoint George Sand and Margaret Montrose to the **PALMONA PARK COMMUNITY ACTION AGENCY/NEIGHBORHOOD DISTRICT**, seconded by Commissioner Manning, called and carried.

Commissioner Judah moved to appoint Diana Giraldo to the **COMMUNITY SUSTAINABILITY ADVISORY BOARD**, seconded by Commissioner Hall, called and carried.

Commissioner Bigelow moved to appoint Betsy Allen to the **COMMUNITY SUSTAINABILITY ADVISORY BOARD**, and to re-appoint Clarence D. Bowman to the **PARKS & RECREATION SERVICES ADVISORY BOARD**, seconded by Commissioner Hall, called and carried.

**COUNTY MANAGER ITEMS**

County Manager Karen B. Hawes had no items for discussion.

**COUNTY ATTORNEY ITEMS**

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

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

ATTEST:  
CHARLIE GREEN, CLERK

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Deputy Clerk

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