

AUGUST 02, 2011

The Regular Meeting of the Board of Lee County Commissioners was held on this date with the following Commissioners present:

- Frank Mann, Chairman
- John E. Manning, Vice Chairman
- A. Brian Bigelow
- Tammara Hall

COMMISSIONER JUDAH WAS ABSENT FOR THE ENTIRE MEETING.

The Chairman called the meeting to order at 9:31 a.m. The Invocation was given by the Chairman, followed by the Pledge of Allegiance.

**PRESENTATIONS**

Commissioner Hall read and presented a Resolution proclaiming August 1st through 7th, 2011 as National Clown Week in Lee County and called upon all citizens to join in appreciation of the fine work these gifted people do in order to make our lives a little more enjoyable. Representatives of Caloosa Clown Alley, a chapter of the Clowns of America International, accepted the Resolution and thanked the Board. (#20110599-COMMISSIONER HALL)

Commissioner Bigelow read and presented a Resolution recognizing and praising Lee Tran employee Peter Borges for meritorious, exemplary and heroic service to a citizen in need of immediate emergency assistance in Lee County, and urged all citizens to recognize this individual for outstanding commitment to one of his fellow citizens. Mr. Borges accepted the Resolution and graciously thanked the Board. (#20110600-COMMISSIONER BIGELOW)

**ANNOUNCEMENTS**

Referring to the Agenda Recap Sheet dated August 2, 2011, the Chairman announced that:

A14B was requested to be revised to reflect the Management Recommendation to DENY.

Following clarification that the County Attorney had formally requested the revision, Commissioner Manning moved approval, seconded by Commissioner Hall, called and carried with Commissioner Judah absent.

One Carry-Over Item and an update on the National Swim Center Corporation negotiations would be heard at the appropriate times in the agenda.

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

A14B – Attorney Segundo Fernandez with the Law firm of Oertel, Fernandez Cole & Bryant

A14B – Attorney Tim Atkinson with the Law firm of Oertel, Fernandez Cole & Bryant

Two additional citizens were advised that their issues were not agenda items and would be taken up at a later date.

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

- Commissioner Hall - none
- Commissioner Manning - none
- Commissioner Bigelow – 1B, 7A and 10C
- Commissioner Mann – 1A

**CONSENT AGENDA**

**1. COUNTY ADMINISTRATION**

**A) ACTION REQUESTED/PURPOSE:**

Conditionally approve Project #LC-11-05-02 as a qualified applicant for a Lee County FIRST Incentive Program award of \$1,000,000.00 subject to execution and final approval of an agreement setting forth performance criteria that must be satisfied to obtain payment. Approve Resolution supporting Project LC-11-05-02 as a qualified applicant for the State Qualified Target Industry Tax Refund Program (QTI) as recommended by the Lee County Industrial Development Authority (IDA) on July 15, 2011. Project #LC-11-05-02 consists

of a multi-national business enterprise. ([#20110569](#)-ECONOMIC DEVELOPMENT)

**FUNDING SOURCE:**

No funding required at this time.

**WHAT ACTION ACCOMPLISHES:**

Furtheres the goal of diversifying Lee County's economy through the creation of high-paying, target industry based employment.

**MANAGEMENT RECOMMENDATION:**

Approve.

PULLED FOR DISCUSSION

Economic Development Director Jim Moore provided an overview of the FIRST Incentive Program at the request of Commissioner Mann, and specifics on the subject item. Commissioner Manning moved approval, seconded by Commissioner Hall. Under discussion, Commissioner Bigelow speculated on the subject applicant, and expressed concern as to its financial need. He also requested further financial background information on the applicant prior to approval for transfer of any funds. Chairman Mann cautioned on violating confidentiality restrictions at this time, and the motion was called and carried with Commissioner Judah absent.

[RESOLUTION NO. 11-08-01](#)

B) **ACTION REQUESTED/PURPOSE:**

Approve [transfer](#) of General Fund reserves in the amount of \$5,000,000.00 for VR Laboratories, LLC. ([#20110579](#)-ECONOMIC DEVELOPMENT)

**FUNDING SOURCE:**

General Fund reserves.

**WHAT ACTION ACCOMPLISHES:**

Moves funds from the FIRST program reserve account to the VR Laboratories, LLC account.

**MANAGEMENT RECOMMENDATION:**

Approve.

PULLED FOR DISCUSSION

Commissioner Bigelow advised that he had previously voted against the original request for economic development support, and would not be supporting the fund transfer. Commissioner Manning moved approval, seconded by Commissioner Hall, called and carried with Commissioner Bigelow voting nay, and Commissioner Judah absent.

C) **ACTION REQUESTED/PURPOSE:**

Approve [transfer](#) of General Fund reserves in the amount of \$1,000,000.00 for Source Interlink Companies. ([#20110581](#)-ECONOMIC DEVELOPMENT)

**FUNDING SOURCE:**

General Fund reserves.

**WHAT ACTION ACCOMPLISHES:**

Moves funds from the FIRST program reserve account to the Source Interlink Companies account.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**2. COMMUNITY DEVELOPMENT**

A) **ACTION REQUESTED/PURPOSE:**

Amend existing SHIP (State Housing Initiatives Partnership) contracts with Lee BIA Builder's Care Inc. as follows:

1) [C-5461](#) - Extend from August 3, 2011 to September 30, 2011 to allow additional time for contract completion;

2) [C-5459](#) - Change the project scope from rehabilitation of at least 3 homes for low-income homeowners to rehabilitation of at least 2 homes for low income homeowners and increase the contract amount by \$5,000.00 (from \$75,000.00 to \$80,000.00).

These changes will allow the agency to spend up to \$40,000.00 per housing unit (i.e. the maximum allowed under Lee County SHIP) and tackle comprehensive rehabilitations associated with deteriorated units needing both rehabilitation and re-design for handicap accessibility. ([#20110578](#)-COMMUNITY DEVELOPMENT)

**FUNDING SOURCE:**

SHIP Local Housing Assistance Funds - existing budget.

**WHAT ACTION ACCOMPLISHES:**

Provides additional time and funds for the rehabilitation of owner occupied units.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**3. CONSTRUCTION AND DESIGN**

No requests received.

**4. COUNTY COMMISSIONERS**

No requests received.

**5. COUNTY LANDS****A) ACTION REQUESTED/PURPOSE:**

Approve Conservation 20/20 Property Acquisition and Negotiation Map.

(#20110535-COUNTY LANDS)

**FUNDING SOURCE:**

Fund–Conservation 20/20 Capital Improvement Fund; Program–Capital Project; Project:

Conservation 20/20, Land Purchase.

**WHAT ACTION ACCOMPLISHES:**

Section Three-D of the Lee County Conservation Lands (Conservation 20/20 Program)

Implementation Ordinance (#05-17) requires that the Board approve an Annual Property

Acquisition and Negotiation Map depicting properties that have been acquired or are

actively being pursued for purchase.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**B) ACTION REQUESTED/PURPOSE:**

Accept [Quit-Claim Deed, from Eduardo and Gisela Delgado](#), for right-of-way necessary for the Dewberry Lane Special Improvement MSBU for maintenance of existing roads and streetlights. Also, authorize the payment of recording fees and the Division of County

Lands to handle and accept all necessary documentation. (#20110536-COUNTY LANDS)

**FUNDING SOURCE:**

Fund – Dewberry Lane Special Improvement Unit; Program – Road and Street Repairs.

**WHAT ACTION ACCOMPLISHES:**

Acquisition of right-of-way via Quit-Claim Deed from benefitted property owners.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**C) ACTION REQUESTED/PURPOSE:**

Approve, and authorize Chair to execute, a Purchase Agreement, with owners [Michael L. and Vicki Z. Culver](#), for acquisition of Parcel 122, a 484 square foot (SF) Fee Simple interest and Parcel 122 PE, a 680 SF [Slope Easement](#) interest, located at 3 Homestead Road, Lehigh Acres, FL 33936, for the Homestead Road Widening Project No. 5063 in the total amount of \$4,300.00.

Authorize the payment of necessary costs and fees to close; and County Lands Staff to execute and accept all documentation necessary to complete this transaction.

(#20110545-COUNTY LANDS)

**FUNDING SOURCE:**

Fund: Road Impact Fees - Central District; Program: Capital Projects; Project: Homestead Road Widening Project No. 5063.

**WHAT ACTION ACCOMPLISHES:**

Acquires necessary property for the widening project.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**D) ACTION REQUESTED/PURPOSE:**

Approve, and authorize Chair to execute, a Purchase Agreement, with owners [Michael L. and Vicki Z. Culver](#), for acquisition of Parcel 123PE, a 525 square foot (SF) [Perpetual Slope Easement](#), Parcel 123 TCE1, a 460 SF [Temporary Construction Easement](#), Parcel 123 TCE2, a 374 SF Temporary Construction Easement, located at 9 Homestead Road, Lehigh Acres, FL 33936, for the Homestead Road Widening Project No. 5063 in the total amount of \$1,700.00. Authorize the payment of necessary costs and fees to close; and County Lands Staff to execute and accept all documentation necessary to complete this transaction. (#20110546-COUNTY LANDS)

**FUNDING SOURCE:**

Fund: Road Impact Fees - Central District; Program: Capital Projects; Project: Homestead Road Widening Project No. 5063.

**WHAT ACTION ACCOMPLISHES:**

Acquires necessary property for the widening project.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**E) ACTION REQUESTED/PURPOSE:**

Approve, and authorize Chair to execute, a Purchase Agreement, with owners [Nyet Y. and Kim K. Wong](#), for acquisition of Parcel 222, a 320 square foot (SF) Fee Simple interest, Parcel 222 PE, a 320 SF [Perpetual Slope Easement](#) and Parcel 222 TCE, a 133 SF [Temporary Construction Easement](#) interest located at 14 Homestead Road, Lehigh Acres, FL 33936, for the Homestead Road Widening Project No. 5063 in the total amount of \$2,100.00. Authorize the payment of necessary costs and fees to close; and County Lands Staff to execute and accept all documentation necessary to complete this transaction. (#20110547-COUNTY LANDS)

**FUNDING SOURCE:**

Fund: Road Impact Fees - Central District; Program: Capital Projects; Project: Homestead Road Widening Project No. 5063.

**WHAT ACTION ACCOMPLISHES:**

Acquires necessary property for the widening project.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**F) ACTION REQUESTED/PURPOSE:**

Approve, and authorize Chair to execute, a Purchase Agreement, with owner [Kim Hong Teh](#), for acquisition of Parcel 225, a 320 square foot (SF) Fee Simple interest and Parcel 225 PE, a 320 SF Slope Easement interest, located at 20 Homestead Road, Lehigh Acres, FL 33936, for the Homestead Road Widening Project No. 5063 in the total amount of \$2,100.00. Authorize the payment of necessary costs and fees to close; and County Lands Staff to execute and accept all documentation necessary to complete this transaction. (#20110548-COUNTY LANDS)

**FUNDING SOURCE:**

Fund: Road Impact Fees - Central District; Program: Capital Projects; Project: Homestead Road Widening Project No. 5063.

**WHAT ACTION ACCOMPLISHES:**

Acquires necessary property for the widening project.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**G) ACTION REQUESTED/PURPOSE:**

Approve Easement Purchase Agreement, with [Fretter Alumni LLC](#), for acquisition of Parcel 1, Force Main Replacement (Pine Ridge Road L256 to Kelly Road) Project 7313 in the amount of \$5,000.00; authorize the payment of attorney fees, costs to close and the Division of County Lands to handle all documentation necessary to complete transaction. (#20110552-COUNTY LANDS)

**FUNDING SOURCE:**

Fund: Utilities Capital Improvements; Program: Capital Projects; Project: FM Repl – Pine Ridge, Orange Riv, Ortiz.

**WHAT ACTION ACCOMPLISHES:**

Acquires a permanent utility easement necessary for construction of the Force Main Replacement (Pine Ridge Road L256 to Kelly Road) Project and avoids condemnation proceedings.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

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

Approve submission to the U.S. Department of Housing and Urban Development (HUD) Lee County's [Annual Action Plan for HUD Fiscal Year 2011](#). Authorize Chair to sign:

- 1) HUD Annual Action Plan [Letter of Submission](#), [Certifications](#), and [SF-424](#);
- 2) [Community Development Block Grant \(CDBG\)](#), [HOME](#) Investment Partnership Program (HOME), and [Emergency Shelter Grant \(ESG\)](#) entitlement agreements upon receipt from HUD;
- 3) associated forms, including CDBG, HOME, and/or ESG [sub-recipient agreements](#) once prepared;
- 4) HUD environmental assessments, and amendments to the Lee County Five Year Consolidated Plan and Annual Action Plans, once prepared, in accordance with Administrative Code 15-2. (#20110551-HUMAN SERVICES)

**FUNDING SOURCE:**

HUD Entitlement Grants.

**WHAT ACTION ACCOMPLISHES:**

Allows Lee County to continue to receive HUD planning, homeless service, community development and affordable housing project funds.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**B) ACTION REQUESTED/PURPOSE:**

Approve submission of Lee County's Homeless Continuum of Care [Challenge Grant for State of Florida FY 2012](#) to the State of Florida Office on Homelessness; and authorize Chair to sign [cover letter](#), certifications, and any other application forms. (#20110567-HUMAN SERVICES)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Allows Lee County to apply for state funding for local homeless programs, which will be administered by local non-profit agencies and grant funds managed by Lee County Department of Human Services.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**7. INDEPENDENT**

**A) ACTION REQUESTED/PURPOSE:**

Authorize acceptance and expenditure authority in the total amount of \$1,441.00 for the following monetary donations: \$25.00 from Barbara K. Leffer in memory of Jack Small for Lakes Regional Library, \$250.00 from Pelmetta Performance Solutions, Inc. in memory of Robert Johnson for Lakes Regional Library, \$616.00 from Friends of Lakes Regional Library for youth services periodicals, \$250.00 from Bernard D. & Joan B. Reisberg Family Foundation for Captiva Library books, and \$300.00 from Friends of the Bonita Springs Library for library card sleeves. Adopt budget amendment resolution in the amount of \$1,441.00 to recognize monetary donations and authorize expenditures.

(#20110573-LIBRARY)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Authorizes acceptance and expenditure of funds pursuant to donors' wishes.

**MANAGEMENT RECOMMENDATION:**

Approve.

**PULLED FOR DISCUSSION**

Commissioner Bigelow moved approval, seconded by Commissioner Hall. Commissioner Bigelow expressed gratitude to the Library benefactors. The motion was called and carried with Commissioner Judah absent.

[RESOLUTION NO. 11-08-02](#)

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

Approve execution of [Joint Funding Agreement No. 11E4FL2550FL017](#) with the U.S. Geological Survey for Water Resource Investigations for the period ending September 30, 2011. The total project cost for the Charlotte Harbor Flatwoods Regional Monitoring Network is \$91,809.43. The U.S. Geological Survey is providing \$36,756.00, FDOT is providing \$45,945.39, and Lee County's cooperative share totals \$9,189.04.

(#20110564-NATURAL RESOURCES)

**FUNDING SOURCE:**

Fund – General Revenue Fund; Program – Water Resources Projects; Project – Surface Water Management Plan.

**WHAT ACTION ACCOMPLISHES:**

Begins multi-agency monitoring program for Charlotte Harbor Flatwoods Initiative.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**9. PARKS AND RECREATION**

No requests received.

**10. PUBLIC SAFETY****A) ACTION REQUESTED/PURPOSE:**

Approve, and authorize Chair to execute, an [Agreement with Jerry's Grocery](#), 1700 Periwinkle Way, Sanibel, for temporary use of their property for emergency response, relief and recovery efforts. The term is for a period of five (5) years.

(#20110518-PUBLIC SAFETY)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Authorizes Lee County temporary use of Jerry's Grocery property for emergency relief and recovery efforts.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**B) ACTION REQUESTED/PURPOSE:**

Approve, and authorize Chair to execute, an [Agreement with Tanger Properties Limited Partnership](#) (Tanger Outlet Stores, 20350 Summerlin Road, 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. ([#20110557](#)-PUBLIC SAFETY)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Authorizes Lee County temporary use of Tanger Outlet Stores property for emergency relief and recovery efforts.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

**C) ACTION REQUESTED/PURPOSE:**

1) Approve, and authorize Chair to execute, the [Construction Manager Agreement](#) under RFQ-09-06 County-Wide Continuing Contract for Construction Management, for the projects known as:

Renovation & Expansion of the Fort Myers Police Department 911 Communication Center to Roger Burks Inc., (a local Contractor ), Contract No. 4820, utilizing 90% of local subcontractors, for a total not-to-exceed Guaranteed Maximum Price (GMP) of \$445,330.00 (includes a 8.2% CM fee or not-to-exceed \$30,658.00), with a project completion time of four (4) calendar months.

2) Approve waiving of the formal process (if needed) and authorize the use of the Direct Materials Purchase Orders as provided for in the CM Agreement with Lee County, which allows the County to purchase directly from suppliers of equipment and/or materials as a cost/time saving measure. ([#20110565](#)-PUBLIC SAFETY)

**FUNDING SOURCE:**

Fund: E-911 Operations - Program: Pub Safety-E911 Implementation - Project: Furniture & Equipment (Fort Myers Police Dept 911 Communication Center).

**WHAT ACTION ACCOMPLISHES:**

Provides Lee County with construction management for the complete renovation and expansion for the Fort Myers Police Department 911 Communication Center.

**MANAGEMENT RECOMMENDATION:**

Approve.

**PULLED FOR DISCUSSION**

Public Safety Director John Wilson, 911 Program Manager Matt Rechkemmer, and Assistant County Manager Doug Meurer responded to questions by Commissioner Bigelow on the selection process, fee structure and the extent of the construction work involved. Commissioner Bigelow expressed concern with the selection process. Commissioner Manning moved approval, seconded by Commissioner Hall for discussion. Commissioner Hall suggested that appropriate staff be present during Board consideration of construction items to provide requested clarification. The motion was called and carried with Commissioner Bigelow voting nay and Commissioner Judah absent.

**11. PUBLIC WORKS ADMINISTRATION****A) ACTION REQUESTED/PURPOSE:**

Approve removal of accounts receivable balances considered to be inactive and uncollectible for Departments and Divisions under Public Works (Department of Transportation, \$19,398.74; Solid Waste Division, \$4,816.37; Natural Resources, \$364.00) and Community Development, \$40,050.00.

([#20110580](#)-PUBLIC WORKS ADMINISTRATION)

**FUNDING SOURCE:**

No funds required. Various operating funds will write off bad debt.

**WHAT ACTION ACCOMPLISHES:**

Annual reduction of accounts receivable balances by the accounts identified as uncollectible. Uncollectibles result when customers' bills remain unpaid for various reasons.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

## 12. TRANSPORTATION

### A) ACTION REQUESTED/PURPOSE:

- 1) Approve award of Formal Quotation No. Q-110221 Landscape Maintenance for DOT Roadways: Summerlin/McGregor-Sanibel Island to Pine Ridge; Sanibel Causeway Islands A & B; Summerlin-Pine Ridge to Gladiolus.
- 2) Approve award to the following local vendors: Section 1 to Big Tree Inc.; Sections 2 and 4 to P & T Lawn & Tractor Service, Inc.; and Section 3 to Amera-Tech, Inc., dba. Florida Evergreen Landscape & Lawncare; at the prices listed on the Lee County Tabulation Sheet.
- 3) The initial term of this quote is one year. Additionally, request authority to negotiate and 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 should it be deemed necessary to do so.
- 4) Also, request authority to add and delete, through negotiation, various sites and services on an as-needed basis, and expend the funds as necessary.  
(#20110549-TRANSPORTATION)

### FUNDING SOURCE:

Fund - Transportation Trust Fund; Program - DOT Ops / Landscape.  
Fund - General Fund; Program - Parks & Recreation Operations.

### WHAT ACTION ACCOMPLISHES:

Allows for landscape maintenance at a more reasonable rate.

### MANAGEMENT RECOMMENDATION:

Approve.

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

## 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 extension, to provide potable water service and fire protection to Gulf Paving Asphalt Plant, an existing industrial business. This project is located on the north side of Hunter Street, approximately ¼ mile west of Metro Parkway. (#20110507-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 with Commissioner Judah absent.

### [RESOLUTION NO. 11-08-03](#)

### B) ACTION REQUESTED/PURPOSE:

Developer Contributed Asset: Approve construction of a gravity collection system serving Airport Woods MSBU, to provide adequate sanitary sewer service to this existing commercial subdivision. This project is located on the west side of Treeline Avenue, approximately one mile north of Daniels Parkway.  
(#20110511-UTILITIES)

### FUNDING SOURCE:

N/A

### WHAT ACTION ACCOMPLISHES:

Provides adequate sanitary sewer infrastructure to this project, and will allow for the abatement of the existing on-site wastewater treatment plant.

### MANAGEMENT RECOMMENDATION:

Approve.

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

**C) ACTION REQUESTED/PURPOSE:**

Developer Contributed Asset: Approve final acceptance, by Resolution, as a donation of water and gravity main relocations serving Three Oaks Town Center, to provide potable water service, fire protection, and sanitary sewer service to this existing shopping center and vacant property slated for future development. This project is located on the east side of Three Oaks Parkway, approximately 1.5 miles south of Alico Road.

(#20110541-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 with Commissioner Judah absent.

[RESOLUTION NO. 11-08-04](#)

**D) ACTION REQUESTED/PURPOSE:**

Developer Contributed Asset: Approve final acceptance, by Resolution and recording of [one \(1\) utility easement](#), as a donation of one potable water service, one 6-inch diameter fire line, and one sewer service, to provide potable water service, fire protection and sanitary sewer service to Southwest Florida Eye Care at International Center, a recently constructed commercial building. This project is located on the south side of International Center Boulevard, approximately 1/4 mile east of Plantation Road.

(#20110553-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 with Commissioner Judah absent.

[RESOLUTION NO. 11-08-05](#)

**14. COUNTY ATTORNEY**

**A) ACTION REQUESTED/PURPOSE:**

Adopt Resolution extending the commencement date for the North Point DRI from December 31, 2011 to December 30, 2012. (#20110529-COUNTY ATTORNEY)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Extends the commencement date from December 31, 2011 to December 30, 2012 in accord with Florida Statutes and Senate Bill 1752 adopted May 28, 2010.

**MANAGEMENT RECOMMENDATION:**

Approve.

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

[RESOLUTION NO. 11-08-06](#)

**15. HEARING EXAMINER**

No requests received.

**16. CONSTITUTIONAL OFFICERS****A) ACTION REQUESTED/PURPOSE:**

Approve the Minutes for the following meetings of the Board of County Commissioners held during the week of June 20 through June 24, 2011:

June 20, 2011 (Zoning), June 21, 2011 (Regular)

(#20110589-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 with Commissioner Judah absent.

**B) ACTION REQUESTED/PURPOSE:**

Approve the Minutes for the following meetings of the Board of County Commissioners held during the week of June 27 through July 1, 2011:

June 27, 2011 (Budget Workshop).

(#20110590-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 with Commissioner Judah absent.

**C) 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. (#20110591-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 with Commissioner Judah absent.

**D) 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). (#20110592-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 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.

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

E) **ACTION REQUESTED/PURPOSE:**

Approve, and authorize Chair to execute, the Department of the Treasury, Internal Revenue Service ([IRS](#)) [Form 8038-CP](#) Return for Credit Payments to Issuers of Qualified Bonds for the Lee County, Florida Tourist Development Tax Revenue Bonds, Series 2010A (Federally Taxable Build America Bonds-Direct Subsidy) ("Series 2010A Bonds"). ([#20110596](#)-FINANCE)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

To request from the Department of Treasury via the IRS the October 1, 2011 interest payment subsidy for the Series 2010A Bonds.

**MANAGEMENT RECOMMENDATION:**

Approve and sign Form 8038-CP.

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

F) **ACTION REQUESTED/PURPOSE:**

Approve, and authorize Chair to execute, the Department of the Treasury, Internal Revenue Service ([IRS](#)) [Form 8038-CP](#) Return for Credit Payments to Issuers of Qualified Bonds for the Lee County, Florida Tourist Development Tax Revenue Bonds, Series 2010B (Federally Taxable Build America Bonds-Recovery Zone Economic Dev. Bonds-Direct Subsidy) ("Series 2010B Bonds"). ([#20110597](#)-FINANCE)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

To request from the Department of Treasury via the IRS the October 1, 2011 interest payment subsidy for the Series 2010B Bonds.

**MANAGEMENT RECOMMENDATION:**

Approve and sign Form 8038-CP.

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

G) **ACTION REQUESTED/PURPOSE:**

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

<b>Tax Deed Number</b>	<b>Payee</b>	<b>Amount</b>
2010-001995	Ruth R. Minnig	\$252.33
	Richard A. Minnig	\$252.33

([#20110598](#)-DELINQUENT TAX)

**FUNDING SOURCE:**

Proceeds from a tax deed sale in excess of the taxes and/or liens owed are being held by the Board for disbursement in 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.

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

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

No requests received.

### **ADMINISTRATIVE AGENDA**

#### **1. COUNTY ADMINISTRATION**

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

Approve [budget transfer](#) to reserves for various funds in the amount of \$9,460,640.00 to recapture budgeted line item expenditures in FY 10-11.

(#20110583-COUNTY MANAGER)

##### **FUNDING SOURCE:**

Various funds – budget reductions.

##### **WHAT ACTION ACCOMPLISHES:**

Provides additional reserves in FY 10-11 to carry forward to FY 11-12.

##### **MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Manning moved approval, seconded by Commissioner Hall. Assistant County Manager Pete Winton provided an overview of the recapture process, and he and County Manager Karen Hawes responded to Board questions. The motion was called and carried with Commissioner Judah absent.

#### **2. COMMUNITY DEVELOPMENT**

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

Approve waiving of the formal process for BW-11-05 Update to Lee County Schools, Park and Fire/EMS Impact Fees; and authorize the Chair to execute a [Service Provider Agreement with James Duncan and Associates, Inc.](#), in the lump sum amount of \$92,900.00 with a project completion of six months.

Direction regarding whether committee review and an Management & Planning presentation should be waived due to the expedited schedule.

(#20110558-COMMUNITY DEVELOPMENT)

##### **FUNDING SOURCE:**

Fund: Unincorporated Area MSTU – Program: Non-Dept – Non-Departmental.

##### **WHAT ACTION ACCOMPLISHES:**

Provides Lee County with a Consultant to update schools, park and fire/EMS impact fees.

##### **MANAGEMENT RECOMMENDATION:**

Approve.

Commissioner Manning moved approval, seconded by Commissioner Hall. Community Development Director Mary Gibbs responded to Board questions on the purpose of the study requested and was directed to continue with an expedited schedule. The motion was called and carried with Commissioner Judah absent.

#### **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:**

Approve the Resolutions of Necessity for the acquisition and condemnation of Parcels 7A & 7B, 8A & 8B, 10, 11A & 11B, 13 & 13 TCE and 14, required for the San Carlos Force Main Replacement - Main Street to Hurricane Pass, Project No. 7320.

(#20110538-COUNTY ATTORNEY)

**FUNDING SOURCE:**

N/A

**WHAT ACTION ACCOMPLISHES:**

Allows the County to proceed with condemnation, if required, of the necessary parcels for construction of the San Carlos Force Main Replacement (Main Street to Hurricane Pass), Project No. 7320.

**MANAGEMENT RECOMMENDATION:**

Approve.

Deputy County Attorney Andrea Fraser advised that there was an error in the proposed Resolutions and requested a motion to defer. Commissioner Manning moved approval to defer this item indefinitely, seconded by Commissioner Hall, called and carried with Commissioner Judah absent.

**B) ACTION REQUESTED/PURPOSE:**

Approve and execute the Disclosure and Waiver of Conflicts of Interest letter from the law firm of Oertel, Fernandez, Cole & Bryant, P.A. A conflict of interest could exist from the representation by Oertel, Fernandez, Cole & Bryant, P.A. of Florida Rock Industries, Inc. and acting as counsel for the County in Resource Conservation Holdings, LLC, v. Lee County, Florida, a political subdivision of the State of Florida, Case No.: 10-CA-2364.

(#20110554-COUNTY ATTORNEY)

**FUNDING SOURCE:**

None, no County financial liability.

**WHAT ACTION ACCOMPLISHES:**

Allows, Segundo J. Fernandez and Timothy P. Atkinson, to represent Florida Rock Industries in connection with environmental, land use and permitting matters.

**MANAGEMENT RECOMMENDATION:**

~~Grant the waiver and execute the Disclosure and Waiver of Conflicts Letter.~~ DENY

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

Administrative Agenda Item A14B is revised to reflect the Management Recommendation: to DENY. Following clarification that the County Attorney had formally requested the revision, Commissioner Manning moved approval, seconded by Commissioner Hall, called and carried with Commissioner Judah absent.

Deputy County Attorney Andrea Fraser provided the reason for the recommendation change along with a timeline summary, and she and County Attorney Michael Hunt responded to Board questions. Commissioner Manning moved to deny the waiver, seconded by Commissioner Hall. Following re-statement of the motion to deny the waiver, the motion was called and carried with Commissioner Judah absent.

**15. HEARING EXAMINER**

No requests received.

**16. CONSTITUTIONAL OFFICERS**

No requests received.

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

No requests received.

**CARRY OVER AGENDA**

**1. ACTION REQUESTED/PURPOSE:**

Developer Contributed Asset: Approve final acceptance, by Resolution and recording of [one \(1\) utility easement](#), as a donation of a water distribution and a gravity collection system, to provide potable water service, fire protection and sanitary sewer service to Airport Crossings, a recently constructed commercial subdivision. This project is located at the southeast corner of Midfield Terminal Access Road and Ben Hill Griffin Parkway. This item was deferred on April 5, 2011 by the Lee County BoCC to allow for further review. ([#20110228-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 with Commissioner Judah absent.

[RESOLUTION NO. 11-08-07](#)

**COMMISSIONER ITEMS**

**PUBLIC COMMENT CARD INSTRUCTIONS** – Commissioner Bigelow requested a revision of the instructions to the public on the Comment Cards, recommending that the Clerk be stricken from the instructions.

**TRANSPORTATION & EXPRESSWAY AUTHORITY MEMBERSHIP OF FLORIDA** – Commissioner Manning requested that he be the replacement appointee on this Committee as a result of the vacancy created with the resignation of Paul Wingard. Commissioner Hall moved approval, seconded by Chairman Mann for discussion. Following brief discussion on appointment protocol, the motion was called and carried with Commissioner Judah absent.

**ALLIED CRANE SERVICES AND O’DONNELL LANDSCAPE DONATION** – Commissioner Hall recognized and thanked both of these entities for their donation of time and over \$8,000.00 in goods and services in providing the live oak tree in front of the Court House.

**FLORIDA GULF COAST UNIVERSITY (FGCU) RENEWABLE ENERGY CHAIR** - Commissioner Hall recognized Dr. Joseph Simmons as the eminent scholar this fall filling the Backe Chair for Renewable Energy at FGCU. She expressed the County’s gratitude to Mr. John D. Backe, President of the Backe Foundation, for his major gift to fund the establishment of this Chair.

DEDICATION CEREMONY - Commissioner Mann advised that there will be a dedication ceremony for the carved eagle and the replacement oak on August 10 at 4:00 p.m., at which time artist Marlin Miller and certain staff members will be honored for their work.

**COMMITTEE APPOINTMENTS**

Commissioner Manning moved to appoint Kay Wagner to the **GASPARILLA ISLAND MSBU COMMITTEE**, and to re-appoint Virginia C. Yates to the **HOUSING FINANCE AUTHORITY**, and Gail Archer Dearie to the **ROADWAY LANDSCAPE ADVISORY COMMITTEE**, seconded by Commissioner Hall, called and carried with Commissioner Judah absent.

Chairman Mann requested a motion to re-appoint Barbara Niland to the **ROADWAY LANDSCAPE ADVISORY COMMITTEE**. Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried, with Commissioner Judah absent.

**COUNTY MANAGER ITEMS**

County Manager Karen Hawes introduced Economic Development Director Jim Moore who advised that a draft agreement was submitted to the National Swim Center Corporation (NSCC) on August 1, with a two week turnaround time for comment. Mr. Moore requested Board direction to stipulate that a fully executed agreement would need to be received by September 30, 2011, otherwise the County Sports Authority would proceed with the pursuit of other options for the City of Palms Park. Commissioner Manning moved approval, seconded by Commissioner Hall. Following further discussion, the motion was called and carried with Commissioner Judah absent.

**COUNTY ATTORNEY ITEMS**

County Attorney Michael Hunt had no items for discussion.

The Chairman adjourned the meeting at 11:04 a.m.

ATTEST:  
CHARLIE GREEN, CLERK

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

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