

APRIL 20, 2004

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

John E. Albion, Chairman  
 Douglas R. St. Cerny, Vice-Chairman  
 Ray Judah  
 Andrew Coy  
 Robert P. Janes

The Chairman called the meeting to order at 9:31 a.m. The Invocation was given by Pastor Ronald Prueter, North Fort Myers First Baptist Church, followed by the Pledge of Allegiance to the Flag.

### PRESENTATIONS

AT THIS TIME, PRESENTATION NO. 4 WAS HEARD. SEE THAT ITEM FOR DISCUSSION AND AWARD.

Commissioner Albion read and presented the Resolution proclaiming the month of May as Internal Auditor Awareness Month, and inviting the citizens of Lee County to join in recognizing professional internal auditors for their contribution. Clerk of Courts Internal Audit Director Chuck Short and Senior Internal Auditor Heidi Payne, present President of the Southwest Florida Chapter of the International Internal Auditors, expressed their appreciation of the Board's recognition and support. (Commissioner Albion-#20040414)

Commissioner Judah read and presented a Resolution proclaiming April 25-May 2, 2004 as Soil and Water Stewardship Week in Lee County and encouraging all residents to be good stewards of soil and water. Since Soil and Water Conservation District Chairman Ron Edenfield was not present, Commissioner Judah requested County Manager Donald D. Stilwell send the Resolution to the Board of Directors of the District. (Commissioner Judah-#20040415)

Commissioner Janes read and presented a Resolution proclaiming the seven-day period from April 20, 2004 through April 27, 2004 as the Lakes Regional Park's 20<sup>th</sup> year anniversary recognition week and urging all citizens to visit Lakes Regional Park. Public Parks and Recreation Director John Yarbrough and Deputy Parks and Recreation Director Barbara Manzo accepted the Resolution, thanked the Board, and invited Lee County citizens to visit the park. (Commissioner Janes-#20040416)

### HEARD AT THE BEGINNING OF THE MEETING.

Commissioner Albion recognized Verandah and The Bonita Bay Group for their commitment and dedication in achieving the FIREWISE Communities/USA designation, and stated that this recognition has only been afforded to four other communities in Florida and a handful of others across the United States. Smokey Bear was a surprise guest who attended the presentation to assist Bonita Bay Group Marketing Director Michael Lear and Division of Forestry Wildfire Mitigation Specialist Gerry LaCavera to accept the Resolution. Mr. Lear and Mr LaCavera both expressed their appreciation to the Board. (Commissioner Albion-#20040417)

### ANNOUNCEMENTS

Referring to the Agenda Revision Recap Sheet dated April 20, 2004, the Chairman announced that:

Administrative Agenda Item 1(b) would be deferred to April 27, 2004. Commissioner Coy moved the item, seconded by Commissioner Janes, called and carried.

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

No one came forward to offer comment.

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

Commissioner St. Cerny - none  
 Commissioner Coy - none  
 Commissioner Judah – 2(c), 12(a)  
 Commissioner Albion – 11(d)  
 Commissioner Janes - none

## CONSENT AGENDA

### 1. COUNTY ADMINISTRATION

No requests received.

### 2. CONSTRUCTION AND DESIGN

#### (a) **ACTION REQUESTED:**

Approve [Vending Facility License Agreement](#) with the Florida Department of Education, the Division of Blind Services, an agency with the State of Florida, to operate a cafeteria and vending area in the Justice Center Complex, located at 1700 Monroe Street, Fort Myers, Florida; as well as a vending area in the Administration Building, located at 2115 Second Street, Fort Myers, Florida. The Division of Blind Services will reimburse Lee County 1½% of their total monthly sales for the Justice Center Complex.

#### **WHY ACTION IS NECESSARY:**

Board must approve all agreements.

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

Allows the Division of Blind Services to continue to operate the cafeteria and vending machines on the second floor of the Justice Center, and continue to provide vending services located on the first floor of the Administration Building. ([#20040384](#)-Facilities Management)

Commissioner Janes moved approval, seconded by Commissioner Coy, called and carried.

#### (b) **ACTION REQUESTED:**

Approve the award of Project EX040368, the Purchase of Modular Furniture, Accessories and Related Services at a Florida State Contract price of \$59,298.54, from Herman Miller Workplace, for use on the 3<sup>rd</sup> floor of the County/City Annex by Public Safety. Also, approve the expenditure of a not-to-exceed amount of \$5,929.00 for such incidentals as, but not limited to, miscellaneous furniture, accessories or overnight shipping, etc.

#### **WHY ACTION IS NECESSARY:**

Purchases over \$50,000.00 must be approved by the Board.

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

Allows the Department of Public Works to obtain the furnishings necessary to relocate Public Safety to the County/City Annex Building on Hendry Street, and to allow for HVAC system replacement at the Six Mile Cypress Building. ([#20040405](#)-Construction and Design)

Commissioner Janes moved approval, seconded by Commissioner Coy, called and carried.

#### (c) **ACTION REQUESTED:**

Award the [Addendum](#) to the Construction Management Agreement, under RFQ-01-04 County-Wide Continuing Contract for Construction Management, for the project known as Lynn Hall Memorial Park Lighting to Compass Construction Inc., for the Guaranteed Maximum Price (GMP) of \$193,000.00 (includes \$11,225.00 Construction Manager (CM) fee). Also, approve [Budget Transfer](#) of \$15,000.00 from the Capitalized Building Maintenance Project to the Capitalized Beach Front Park Maintenance Project; and amend FY 03/04 – 07/08 CIP. Also, request that the Board approve waiving of the formal process, if needed; and authorize the use of the Director Material Purchase Order based on CM's competitive process, which allows the County to purchase directly from suppliers of equipment and/or materials as a cost/time saving measure.

#### **WHY ACTION IS NECESSARY:**

Board approval required.

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

Provides the County with a Construction Manager for the lighting at Lynn Hall Memorial Park. ([#20040428](#)-Construction and Design)

### PULLED FOR DISCUSSION

Commissioner Judah moved the item, seconded by Commissioner Coy. In response to Commissioner Judah's inquiry regarding the use of environmentally friendly lighting to reduce nighttime glow to help protect the sea turtle hatchlings, Facilities Management Director Richard Beck agreed; and added that staff had spent months checking into the best lighting method to use on behalf of everyone. Commissioner Judah noted that he had a chart which he could provide that would indicate which lighting was environmentally friendly and acceptable to everyone involved. Mr. Beck responded that staff was familiar with the chart. The motion was called and carried.

### 3. COUNTY COMMISSIONERS

No requests received.

#### 4. **COMMUNITY DEVELOPMENT**

(a) **ACTION REQUESTED:**

Accept Petition #VAC2004-00002, submitted by H.L. Bennett, as agent on behalf of OptiExpress, Inc., to vacate a 12-foot wide drainage and public utility easement, centered on the common lot line between Lots 4 and 5, 5 and 16, 16 and 17, and 17 and 4, Block 29, as recorded in Plat Book 15 at Page 70 of the Public Records of Lee County, Florida; less and except the northerly six-feet of the easement on the common lot line between Lots 4 and 5; less and except the easterly six-feet of the easement on the common lot line between Lots 5 and 16; less and except the southerly six-feet of the easement on the common lot line between Lots 16 and 17; less and except the westerly six-feet of the easement on the common lot line between Lots 17 and 4; and adopt a resolution, setting a public hearing for May 11, 2004 at 5:00 p.m. The site is located at 2913 Lee Boulevard, Lehigh Acres.

**WHY ACTION IS NECESSARY:**

To build a commercial building on the combined four (4) lots. The vacation of this easement will not alter existing drainage and utility conditions, and the easement is not necessary to accommodate any future drainage and utility requirements.

**WHAT ACTION ACCOMPLISHES:**

Sets the time and date of the Public Hearing. ([#20040350](#)-Development Services)

Commissioner Janes moved approval, seconded by Commissioner Coy, called and carried.

[RESOLUTION NO. 04-04-27](#)

#### 5. **HUMAN SERVICES**

No requests received.

#### 6. **INDEPENDENT**

(a) **ACTION REQUESTED:**

Approve Budget Amendment Resolution and [Budget Transfer](#).

**WHY ACTION IS NECESSARY:**

BOCC approves all Budget Amendments and Transfers involving Reserves.

**WHAT ACTION ACCOMPLISHES:**

Allows staff to close out funds for completed projects and expend funds from appropriate accounts.

([#20040406](#)-MSTBU Services)

Commissioner Janes moved approval, seconded by Commissioner Coy, called and carried.

[RESOLUTION NO. 04-04-28](#)

#### 7. **PUBLIC SAFETY**

No requests received.

#### 8. **SOLID WASTE-NATURAL RESOURCES**

(a) **ACTION REQUESTED:**

Execute [Interlocal Agreement](#) between the City of Cape Coral and Lee County.

**WHY ACTION IS NECESSARY:**

Formalizes funding agreement between the City and County.

**WHAT ACTION ACCOMPLISHES:**

Provides WCIND pass-through funding to the City, as needed, for the long-term maintenance of the City's channel marking systems; not to exceed \$15,000.00 per annum. ([#20040372](#)-Natural Resources)

Commissioner Janes moved approval, seconded by Commissioner Coy, called and carried.

#### 9. **TRANSPORTATION**

(a) **ACTION REQUESTED:**

Approve [budget transfer](#) in the amount of \$251,773.00, from District 7, Road Impact Fee Reserves, to Master Drainage Study Project-Boca Grande (CIP #206047); and amend FY03-07 Capital Improvement Program.

**WHY ACTION IS NECESSARY:**

Requires BOCC approval for amendments to CIP.

**WHAT ACTION ACCOMPLISHES:**

Allows County to proceed with construction of the first phase of planned drainage improvements in the central Boca Grande area. ([#20040383](#)-Transportation)

Commissioner Janes moved approval, seconded by Commissioner Coy, called and carried.

(b) **ACTION REQUESTED:**

Approve [Change Order No. 2](#) to Contract No. 2516, BW-03-07 Electronic Toll Collection, with TransCore, in the amount of \$79,060.00.

**WHY ACTION IS NECESSARY:**

Board approval required.

**WHAT ACTION ACCOMPLISHES:**

Allows the Department of Transportation to complete the computer software/hardware modifications to be interoperable with SunPass. ([#20040410](#)-Transportation)

Commissioner Janes moved approval, seconded by Commissioner Coy, called and carried.

**10. UTILITIES**

(a) **ACTION REQUESTED:**

Approve construction of a water distribution and gravity collection system serving Daniels Park. This is a developer contributed asset; and the project is located on the south side of Daniels Parkway, approximately 3,000 feet west of Fiddlesticks Boulevard.

**WHY ACTION IS NECESSARY:**

To provide potable water service, fire protection and sanitary sewer service to this proposed single-family residential subdivision.

**WHAT ACTION ACCOMPLISHES:**

Provides adequate utility infrastructure to support development of the subject property, and complies with the Lee County Utilities Operations Manual. ([#20040142](#)-Utilities)

Commissioner Janes moved approval, seconded by Commissioner Coy, called and carried.

(b) **ACTION REQUESTED:**

Approve construction of a water main extension serving Mellow Estates. This is a developer contributed asset; and the project is located on the north side of Mellow Drive, approximately one-half mile west of Slater Road.

**WHY ACTION IS NECESSARY:**

To provide potable water service and fire protection to the proposed ten-lot single-family residential subdivision.

**WHAT ACTION ACCOMPLISHES:**

Provides adequate utility infrastructure to support development of the subject property, and complies with the Lee County Utilities Operations Manual. ([#20040390](#)-Utilities)

Commissioner Janes moved approval, seconded by Commissioner Coy, called and carried.

(c) **ACTION REQUESTED:**

Approve final acceptance, by resolution, as a donation for one fire hydrant serving Hope Hospice at Healthpark, Florida. This is a developer contributed asset project located approximately 1,600 feet west of Bass Road along the north side of North HealthPark Circle.

**WHY ACTION IS NECESSARY:**

To provide fire protection to the recently constructed care facility.

**WHAT ACTION ACCOMPLISHES:**

Places the fire hydrant into operation, and complies with the Lee County Utilities Operations Manual. ([#20040391](#)-Utilities)

Commissioner Janes moved approval, seconded by Commissioner Coy, called and carried.

[RESOLUTION NO. 04-04-29](#)

(d) **ACTION REQUESTED:**

[Award B-04-10](#), Lift Station #263-A, for the Utilities Division, to the low bidder meeting all bidding requirements, [JP Murphy, Inc.](#), for a total not-to-exceed amount of \$538,453.00, with a final project completion time of 168 days.

**WHY ACTION IS NECESSARY:**

Board approval required

**WHAT ACTION ACCOMPLISHES:**

To select a contractor who will construct a new lift station wet-well and submersible pumps.

(#20040407-Utilities)

Commissioner Janes moved approval, seconded by Commissioner Coy, called and carried.

**11. PARKS AND RECREATION****(a) ACTION REQUESTED:**

Approve an [agreement](#), between the South Florida Water Management District (SFWMD) and Lee County, for a lease of approximately 188 acres located within or adjacent to Caloosahatchee Regional Park.

**WHY ACTION IS NECESSARY:**

To meet the requirement of SFWMD for Lee County to use the lands near Caloosahatchee Regional Park.

**WHAT ACTION ACCOMPLISHES:**

Approves a five-year lease of SFWMD properties within or adjacent to Caloosahatchee Regional Park.

(#20040382-Parks and Recreation)

Commissioner Janes moved approval, seconded by Commissioner Coy, called and carried.

**(b) ACTION REQUESTED:**

Authorize the Chairman to sign [Task Assignment](#) SWO50 on Contract SL 893, between the Florida Department of Environmental Protection (DEP) and Lee County, for upland exotic plant control at the Big Hickory Island Preserve. Approve Budget Amendment in the amount of \$49,500.00; and amend the FY 03/FY04 CIP budget accordingly.

**WHY ACTION IS NECESSARY:**

To allow exotic control work to be done at the Big Hickory Island Preserve.

**WHAT ACTION ACCOMPLISHES:**

The contract sets up the mechanism for Lee County to receive funding, on a reimbursement basis, for exotic plant control performed through this contract on a task assignment basis. (#20040388-Parks and Recreation)

Commissioner Janes moved approval, seconded by Commissioner Coy, called and carried.

**[RESOLUTION NO. 04-04-30](#)****(c) ACTION REQUESTED:**

Waive the parking fee for Lakes Regional Park during the seven-day celebration of the park's 20<sup>th</sup> Anniversary.

**WHY ACTION IS NECESSARY:**

Board approval is necessary to waive fees.

**WHAT ACTION ACCOMPLISHES:**

Approval to waive parking fees for seven-day celebration of the 20<sup>th</sup> Anniversary of Lakes Regional Park. (#20040398-Parks and Recreation)

Commissioner Janes moved approval, seconded by Commissioner Coy, called and carried.

**(d) ACTION REQUESTED:**

Award the [Addendum](#) under RFQ-01-04 County-Wide Continuing Contract for Construction Management, for the project known as Teacherage Building Improvement – Phase I, to Casey Construction, for the guaranteed maximum price (GMP) of \$242,628.00 (includes \$21,580.00 Contract Manager fee). At this time, it is also being requested that the Board approve waiving of the formal process, if needed, and authorize the use of the Direct Material Purchase Order based on CM's competitive process, which allows the County to purchase directly from suppliers of equipment and/or materials as a cost/time saving measure. Also, approve [budget transfer](#) from Capital Improvement Fund reserves, in the amount of \$242,628.00; and amend FY 03/04 -07/08 CIP for Teacherage Improvement Project.

**WHY ACTION IS NECESSARY:**

Board approval required.

**WHAT ACTION ACCOMPLISHES:**

This work will be performed for the Parks and Recreation Department. It will provide the County with a Construction Manager, and all services needed for the Teacherage Building Improvement – Phase I,

remediation and abatement of asbestos, lead and other hazardous substances. ([#20040403](#)-Parks and Recreation)

Commissioner Albion inquired if this was a budgeted item because the cost is being taken from reserves. Public Parks and Recreation Director John Yarbrough responded that it was not budgeted; explained that the Teacherage building was the DOT house and has been county property for many years; and explained that the building has serious lead and other potential harmful problems. Facilities Management Director Richard Beck stated that because the building was leased, the county had no prior maintenance responsibility; however, after a cursory review of the building, significant problems were discovered, such as mold, lead paint and asbestos. Mr. Beck explained that the building exceeded lead limits by 100 times, which necessitated closing the building, and declaring it not feasible for use until it is repaired. Commissioner Janes reminded the Board that it is a historic building which adds to the complexity of the problem. Commissioner Albion suggested checking county leased buildings to avoid unpleasant surprises and possible liability. Mr. Beck concurred and added that that was his intention at the time of the discovery. Commissioner Judah moved the item, seconded by Commissioner Coy, called and carried.

(e) **ACTION REQUESTED:**

Accept Master Plan for Lakes Park as presented at the Management and Planning meeting on April 5, 2004.

**WHY ACTION IS NECESSARY:**

Per Board direction, the Department of Parks and Recreation has contracted with Wilson-Miller to develop the phased master plan for Lakes Park. Parks and Recreation seeks Board acceptance of the plan.

**WHAT ACTION ACCOMPLISHES:**

Acceptance of the Lakes Park Master Plan will permit the Department of Parks and Recreation to make phased improvements and renovations to Lakes Regional Park, as guided by the master plan. Funding for this master plan will go through the regular budgeting process. ([#20040443](#)-Parks and Recreation)

Commissioner Janes moved approval, seconded by Commissioner Coy, called and carried.

## 12. COUNTY ATTORNEY

(a) **ACTION REQUESTED:**

Request authorization to advertise for, and conduct a Public Hearing, on May 11, 2004 at 5:00 p.m. in Chambers, to enact a Reviser's Ordinance Repealing Lee County Ordinance 96-10, Court Filing Fees for Legal Aid, for the reason that it is obsolete.

**WHY ACTION IS NECESSARY:**

Board must formally adopt Ordinance at a Public Hearing.

**WHAT ACTION ACCOMPLISHES:**

Sets May 11, 2004 at 5:00 p.m. for the Public Hearing date and time and allows the process to go forward. ([#20040386](#)-County Attorney)

### PULLED FOR DISCUSSION

Commissioner Judah expressed his concern with the legislature cost shifting the state court system to the local level; noted that there is sponsored legislation to eliminate the surcharge that has been used for legal aide services; and added that the next step to be expected will be a request that the county provide the funding. He stated that the county would ultimately be forced to support this revision of the Ordinance, to repeal it, while being forced to eliminate the surcharge for assistance to indigents. Assistant County Attorney Kristie Kroslock advised that the county must follow state general law which results in appealing Lee County's Ordinance 96-10 which will be effective July 1, 2004. Commissioner Judah suggested trying to appeal to the Legislature while it is still in session. Commissioner Albion stated he thought it was being repealed because the State was taking on the responsibility in terms of the Constitutional Amendment that passed; and added that a county cannot collect money for a purpose they no longer have responsibility for. County Attorney James G. Yaeger clarified that that was the premise, that all of the filing fees and service charges imposed by the local Ordinance are rescinded; and the Legislature will require, unless the Bill is changed, that the county fund legal aid services by whatever means available under the Legislation; and added that two services are identified as a local requirement; the legal aid issues, and a pre-disposition service. Continuing, he stated that another area being affected is the law library, however, sometime in May the Attorney's Office will receive information from the Legislature Session that will indicate what the Legislature did with the Bills, but it does not appear that they will change the legal aid portion. Attorney Kroslock noted she was working with Attorney Marianne Kantor on an agreement to provide for indigent legal aid services, and stated Budget Services had reported that the legal services would cost approximately \$200/300 thousand annually. Assistant County Manager Holly Schwartz reported that there are two weeks left within this Session, that they are working on different fees, and after noting it was too late for letters, suggested phoning the county's local Delegation. Commissioner Coy suggested faxing the Board's request/decision today. Commissioner Albion stated that if nothing but red ink flows from Tallahassee to Lee County, the Board may have to put a line item on the tax bill and explain to the citizens that this cost exists because

the State Legislature transferred their responsibility to the counties. Commissioner Judah moved to request the Legislature, this session, to change General Law to allow for the collection of the Court Filing Fee for the purposes of funding necessary to provide for legal assistance for indigents, seconded by Commissioner Coy. After Chairman Albion pointed out that the request before the Board was to go to public hearing, Commissioner Judah clarified that the motion included to go to public hearing. The Chairman suggested separating the motions since one motion will go to the public hearing and one motion would be a direct, immediate action. Commissioner Judah pulled the motion, and stated the motion on the table was to go for public hearing for this repeal, seconded by Commissioner Coy, called and carried. The Chairman requested a motion for the letter. Commissioner Judah moved to send a letter, to ask the Legislature to change General Law to allow for the collection of the filing fee with the court system for the surcharge for legal assistance to indigents, seconded by Commissioner Coy, called and carried.

**13. HEARING EXAMINER**

No requests received.

**14. PORT AUTHORITY**

No requests received.

**15. CONSTITUTIONAL OFFICERS**

(a) **ACTION REQUESTED:**

Approve [disbursements](#).

**WHY ACTION IS NECESSARY:**

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

**WHAT ACTION ACCOMPLISHES:**

Compliance with the requirements of FS 136.06(1). ([#20040396](#)-Clerk of Courts)

Commissioner Janes moved approval, seconded by Commissioner Coy, called and carried.

**ADMINISTRATIVE AGENDA**

**1. COUNTY ADMINISTRATION**

(a) **ACTION REQUESTED:**

Approval to select underwriters for the Transportation Facilities Refunding Revenue Bonds, Series 2004C.

**WHY ACTION IS NECESSARY:**

Board must approve selection of the underwriters for the Transportation Facilities Refunding Revenue Bonds, Series 2004C.

**WHAT ACTION ACCOMPLISHES:**

Provides underwriter selection for the Transportation Facilities Refunding Revenue Bonds, Series 2004C. ([#20040400](#)-Budget Services)

Commissioner Janes moved the item, seconded by Commissioner Coy, called and carried.

(b) **ACTION REQUESTED:**

Authorize the Chairman or Vice Chairman to sign a resolution for the award of the Tourist Development Tax Refunding Revenue Bonds, Series 2004, pursuant to a public bid set forth in the resolution that meets certain specific criteria. Authorize other approvals as necessary contained in this resolution.

**WHY ACTION IS NECESSARY:**

Allows greater flexibility in marketing and selling the Tourist Development Tax Refunding Revenue Bonds, Series 2004.

**WHAT ACTION ACCOMPLISHES:**

Allows the bonds to be awarded following a competitive sale without reconvening the Board of County Commissioners. ([#20040401](#)-Budget Services)

DURING THE ANNOUNCEMENTS PORTION OF THE MEETING, THE CHAIRMAN ANNOUNCED THAT: Administrative Agenda Item 1(b) would be deferred to April 27, 2004. Commissioner Coy moved the item, seconded by Commissioner Janes, called and carried.

**2. CONSTRUCTION AND DESIGN**

- (a) **ACTION REQUESTED:**  
 Declare a limited, temporary emergency, by Resolution, for repairs to Terry Park Pigott Stadium, seating repair which requires certain, immediate and necessary improvements, for the protection and safety of the stadium assets and customers. Also, request Board approve emergency funding for Terry Park Pigott Stadium seating repair. Approve [budget transfer](#) of \$1,000,000.00 from CIP reserves; and amend the FY 03/04 CIP.  
**WHY ACTION IS NECESSARY:**  
 Board of County Commissioners' approval is required for any Emergency Declaration.  
**WHAT ACTION ACCOMPLISHES:**  
 Allows the County to proceed with certain, immediate improvements to the Stadium. ([#20040404](#)-Construction and Design)

Commissioner Judah moved the item, seconded by Commissioner Coy, called and carried.  
[RESOLUTION NO. 04-04-31](#)

**3. COUNTY COMMISSIONERS**

No requests received.

**4. COMMUNITY DEVELOPMENT**

No requests received.

**5. HUMAN SERVICES**

No requests received.

**6. INDEPENDENT**

- (a) **ACTION REQUESTED:**  
 Adopt resolution for making application for Tax Deeds on County held Tax Sale Certificates for properties having assessed values of \$4,999.00 or less; approve Budget Amendment Resolution and [transfer](#) of \$250,000.00, each; and amend FY03-04 CIP accordingly.  
**WHY ACTION IS NECESSARY:**  
 Statutory provisions require Board resolve in order for staff to carry out Board's direction.  
**WHAT ACTION ACCOMPLISHES:**  
 Provides the County with opportunity to pursue collection of unpaid ad valorem taxes and acquire real property for County purpose by tax deed process. ([#20040378](#)-County Lands)

Commissioner Janes moved the item, seconded by Commissioner Coy, called and carried.  
[RESOLUTION NOS. 04-04-32](#) and [04-04-33](#)

**7. PUBLIC SAFETY**

No requests received.

**8. SOLID WASTE-NATURAL RESOURCES**

No requests received.

**9. TRANSPORTATION**

- (a) **ACTION REQUESTED:**  
 Approve a request from the Cape Coral Chamber of Commerce, and authorize the Chairman to execute the [agreement](#) on behalf of the Board. Approve the closing of the Cape Coral Bridge on July 4, 2004, from Noon until 3:00 a.m. on July 5, 2004, to accommodate the Chamber's Red, White and Boom Celebration.  
**WHY ACTION IS NECESSARY:**  
 Approval of a bridge closure and the resultant loss of revenue require Board approval.  
**WHAT ACTION ACCOMPLISHES:**  
 Allows the Chamber to proceed with the planning of their 4<sup>th</sup> of July Celebration. ([#20040418](#)-Transportation)

Commissioner Coy moved the item, seconded by Commissioner Janes. Commissioner Coy stated he appreciated that Cape Coral Chamber of Commerce Mike Quaintance, who was present in the audience, has agreed not to shoot the fireworks off the Cape Coral bridge this year, and for working with the Board regarding this issue. Commissioner Judah stated he was grateful for Mr. Quaintance’s working with the Board so that he could support the motion this year; and added that he was looking forward to the celebration. The motion was called and carried.

**10. UTILITIES**

No requests received.

**11. PARKS AND RECREATION**

No requests received.

**12. COUNTY ATTORNEY**

**(a) ACTION REQUESTED:**

Approve contract for purchase of Parcel 147, STRAP No. 04-44-24-00-00070.0010, from Marcellino and Lee Stellato, for the Pondella Road Widening Project, Phase III, No. 4656, in the amount of \$15,045.00, plus attorney fees in the amount of \$2,852.85, pursuant to the terms and conditions as set forth in the [Agreement for Purchase and Sale of Real Estate](#); authorize necessary costs to close; and authorize the Chairman, on behalf of the Board, to execute the [agreements](#).

**WHY ACTION IS NECESSARY:**

Board must approve contract for it to be legally binding.

**WHAT ACTION ACCOMPLISHES:**

Creates contract for sale/purchase of Parcel 147. ([#20040399](#)-County Attorney)

Commissioner Janes moved the item, seconded by Commissioner Coy, for discussion. Commissioner Coy clarified that this is the intersect between North Fort Myers and Cape Coral where a small segment is being forfeited, and inquired when this construction would be completed. Division of Transportation Director Scott M. Gilbertson responded the construction would be completed sometime in July. The motion was called and carried.

**13. HEARING EXAMINER**

No requests received.

**14. PORT AUTHORITY**

No requests received.

**15. CONSTITUTIONAL OFFICERS**

No requests received.

**COMMISSIONER ITEMS**

**GOOD WHEELS BUDGET** - Commissioner Coy, referring to Good Wheels, and requested a paper be sent to all the Commissioners by April 28<sup>th</sup> on the dollars that the State has given Good Wheels for the past four budget cycles, and how much is expected for the fifth-year budget. Assistant County Manager Holly Schwartz explained that the end of the session has not been completed, and there are certain Medicaid questions that would not be settled until the end of session. Commissioner Coy suggested putting what is in the fifth-year budget at this time and adding an asterisk stating that it is subject to change by the end of session.

**PHOSPHATE ISSUE** - Commissioner Judah thanked Commissioner Janes for attending the press conference in his place last week when the Peace River was designated as one of ten most impaired water bodies in the entire nation, as well as highlighting the concerns on the cause of the phosphate industry’s continued expansion down the watershed towards Charlotte Harbor, and the impact on Charlotte Harbor and the marine sources. He stated he realized that the county was looking at contributing additional monies with regards to the lawsuit because the State Department Environmental Protection’s not been accountable and responsible on how they are dealing with the permitting of the phosphate industry. Commissioner Judah inquired if the Board had previously sent a request to the governor requesting a region-wide Environmental Impact Assessment be made of the phosphate industry to determine its accumulative impact. County Attorney James G. Yaeger responded that letters were sent about a year ago to the Corps of Engineers and other agencies, but he would check into the matter. Commissioner Judah requested a follow-up on the status of the request for a region-wide Environmental Impact Statement (EIS) of the impact of the industry

on the Peace River, its tributaries, and the Charlotte Harbor Aquatic Preserve. Attorney Yaeger stated he would check into the issues. The Chairman added that a follow-up letter is needed to know what the status is, and if nothing has been done, why not, because the Board needs to understand all of the issues involved; and suggested the letter include the projected funding costs.

**COMMITTEE APPOINTMENTS**

Commissioner Janes moved to appoint Wayne Holbrook to the **SOLID WASTE ADVISORY COMMITTEE**, seconded by Commissioner Coy, called and carried.

Commissioner Coy moved to appoint Gary Keith McMahon to the **NORTH FORT MYERS STREETLIGHTING AND SIDEWALK DISTRICT ADVISORY COMMITTEE**, seconded by Commissioner St. Cerny, called and carried.

Commissioner St. Cerny moved to reappoint Don Petruccelli to the **PARKS AND RECREATION ADVISORY COMMITTEE**; to reappoint Anne P. Flaughner to the **TANGLEWOOD SPECIAL IMPROVEMENT UNIT COMMITTEE**, to appoint Renee J. Kwaitt to the **SOLID WASTE COLLECTION ADVISORY COMMITTEE**, seconded by Commissioner Janes, called and carried.

Commissioner Judah moved to appoint Jeff Brim to the **BICYCLE/PEDESTRIAN ADVISORY COMMITTEE**, seconded by Commissioner St. Cerny, called and carried.

**COUNTY MANAGER ITEMS**

County Manager Donald D. Stiwell stated that congratulations were in order to Lee County Construction and Design Project Manager Ayoub R. Al-Bahou, Sheely Architects, and Bundsch Kraft, who were honored Saturday with the 2003 Best Commercial Project Pinnacle Award for the City/County Annex building in downtown Fort Myers. He explained that the awards were given by the Building Industry Association, who praised the building for fitting so well into the context of Fort Myers, and looked as though it had been a part of the downtown area for many years.

**COUNTY ATTORNEY ITEMS**

County Attorney James G. Yaeger reported that Assistant County Attorney John S. Turner had an item to offer. Attorney Turner explained that this issue was in regard to the Baker Spur, off of the Seminole Gulf Railway, that runs parallel to Alico Road and is part of the Alico Road Improvement Project. He stated he was seeking Board direction and authorization to proceed to the Surface Transportation Board in Washington, D. C. for an Adverse Abandonment Proceeding to be initiated against the railroad so that the county can acquire the crossing on the Baker spur near the Haitian Road. He informed the Board that during the proceedings, he would keep the Board updated as to the settlement negotiations progress as he continues to negotiate with the railroad in an attempt to purchase their interest for the crossing, thereby speeding up the approval process through the Surface Transportation Board. He added that he does not have a dollar figure at this time, but will return before the Board when one is reached. Commissioner Judah expressed his appreciation for Attorney Turner’s efforts. Commissioner St. Cerny so moved, seconded by Commissioner Coy, called and carried.

The Chairman adjourned the meeting at 10:25 a.m.

ATTEST:  
CHARLIE GREEN, CLERK

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Deputy Clerk

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[Chairman, Lee County Commission](#)