

NOVEMBER 01, 2004

The Special 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 1:30 p.m.

### ADMINISTRATIVE AGENDA

#### 12. COUNTY ATTORNEY

##### **ACTION REQUESTED:**

- (a) Authorize the Clerk of Courts Finance Division to place the October 2004 and all subsequent payments of the County's "Sanibel Bridges" surplus toll revenue share to the City of Sanibel into escrow until certain issues relating to the City's lawsuit are resolved. Such funds will be placed into escrow in an interest-bearing, discrete sub fund of the County, and will not be sent.

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

Board action is required to authorize the Clerk of Courts to place the Sanibel surplus toll revenue share into a discrete, interest-bearing escrow account.

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

Provides authorization and direction to the Clerk of Courts to place and retain certain payments to the City of Sanibel in escrow until Interlocal Agreement issues are resolved.

Assistant County Attorney David M. Owen reviewed the request; noted that 21% of the surplus toll revenue, under the Interlocal Agreement with the City of Sanibel, is in dispute; informed that the October 30 payment was due; referred to the May 7 ruling of the courts where the development of the facilities issue was found to be invalid; and opined that because those dollars are in dispute, the funds should be placed in escrow until differences are resolved. Sanibel Mayor Marty Harrity commented that the letter regarding the Interlocal Agreement came as a surprise, and requested that the City be allowed to discuss the issue. Following an update on the court case, Deputy County Attorney Robert W. Gray stated that the county is requesting the City to relinquish their 21% to reduce the debt, and noted that the County has given up the remaining 79% since 1997. Division of Transportation Director Scott M. Gilbertson stated that the County's percentage is going into the Bridge funds and road repair. In response to Commissioner Judah's inquiry, Mr. Gilbertson and Attorney Gray confirmed that the lawsuit would have no impact on the bridge permit. Attorney Gray requested a consensus from Clerk of Circuit Courts Charlie Green to hold the payment. Mr. Green stated that historically, the check was issued on April 30<sup>th</sup> and October 31<sup>st</sup>, and that the Board should direct the proper disbursement of funds. Attorney Gray noted that there are no penalty provisions in the Interlocal Agreement. Commissioner Coy questioned if there would be a penalty if the funds were held for 8 days instead of 24 hours; Mr. Green confirmed that the funds could be held as long as the Board wished. Commissioner Judah stated that, regardless of the outcome of the City's meeting, those dollars are needed to reduce the cost of the bridge and tolls. Mr. Green clarified that an Escrow account would not actually be established; those funds would be tracked in a sub fund. Commissioner Judah moved to earmark these funds in a separate sub-fund, seconded by Commissioner Coy for discussion. Commissioner Coy stated that the point of using these dollars is to lower the tolls. In response to Commissioner Albion's request for clarification, Attorney Gray stated that there is a genuine dispute as to whether this money can be used for anything other than transportation corridors, and, in fact, whether it can be used for anything other than a County transportation corridors. Commissioner St.Cerny suggested the Clerk's Office withholds the funds until after the hearing. Commissioner Judah agreed to have the motion reflect Commissioner St. Cerny's suggestion. The motion was called and carried. COMMISSIONER COY LEFT THE MEETING AT 2:14 P.M.

#### EXTRA ITEM

Commissioner Judah requested assistance be offered to upper Captiva in debris collection by looking into bargaining the waste. Commissioner Janes concurred that the debris issue in upper Captiva is a major problem, and questioned if FEMA would fund the collection of the debris. Solid Waste Division Director Lindsey Sampson stated that it would be difficult to get reimbursement from FEMA in order to collect the debris. Commissioner Albion recommended that a team be set up to conduct the proper research to prioritize areas that require assistance. Mr. Sampson stated that he would submit a memo regarding this request. Commissioner Janes commended Mr. Sampson and staff on their exceptional work. Commissioner Judah commented on the need for an action plan, and Commissioner Albion stated

that, no later than next week's regular meeting, Administration should report back to the Board on what they feel would be a reasonable time frame and an acceptable strategy.

The Chairman adjourned the meeting at 2:22 p.m.

ATTEST:  
CHARLIE GREEN, CLERK

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Deputy Clerk

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[Chairman, Lee County Commission](#)