

JANUARY 18, 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. The Invocation was given by Team Pastor Peter Cova, Life Church, with a Moment of Silence in tribute to the recently deceased Deputy Scott Wheeler, followed by the Pledge of Allegiance.

PRESENTATIONS

PRESENTED IN REVERSE ORDER

Commissioner Mann read and presented a Ceremonial Resolution proclaiming January 2011 as: Southwest Florida Symphony Month in Lee County and commending the Southwest Florida Symphony for providing Lee County with one of its most invaluable cultural resources. Music Director and Conductor of the Symphony Michael Hall and Past President of the Board of Trustees SWFL Symphony, Orchestra and Chorus Scott P. Gregory accepted the Resolution, and expressed their appreciation and desire for continued partnerships with the schools and the community as a whole. ([#20110015](#)-County Commissioners)

Commissioner Judah read and presented a Ceremonial Resolution designating January 22, 2011 as WINK News Feeds Families Hunger Walk Day in Lee County and urging the citizens of Lee County to participate in this worthy cause. The Resolution was accepted by WINK TV anchor Lois Thome, and Harry Chapin Food Bank Executive Director Al Brislain who, in company with Joyce Jacobs and Florida Gulf Coast University Board President Jo Anna Bradshaw, graciously thanked the Board and urged everyone to participate in or support this event that will begin at 9 a.m. at Miromar Outlets. ([#20110016](#)-County Commissioners)

ANNOUNCEMENTS

Referring to the Agenda Recap Sheet dated January 18, 2011, the Chairman announced that:

A Quarterly Budget Status would be presented under County Manager items.

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

The Chairman called for public input and the following individuals came forward:

C8D – Collier County Audubon representative Pete Quasius;

C8B - Bonita Springs resident Jack Meeker.

There were no items pulled for discussion by the individual Commissioners; however, Commissioner Judah requested and received assurance that the Commissioners had seen the letter referred to in C8D addressed to the U.S. Army Corps of Engineers, Jacksonville District. He expressed appreciation to County Attorney Susan Henderson and Natural Resources Director Roland Ottolini for drafting the correspondence.

CONSENT AGENDA

1. COUNTY ADMINISTRATION

A) ACTION REQUESTED/PURPOSE:

Present to the Board, for information and filing, the Object Code #504015 Expenditure Detail Report for the first quarter of FY10-11 (October through December 2010) as required by Lee County Ordinance #90-18. ([#20110007](#)-COUNTY MANAGER)

FUNDING SOURCE:

Combination of Human Resources, Human Services, Libraries, Non-Departmental, Parks & Recreation (including Extension Services), Public Resources, Public Safety, Sustainability and Transit.

WHAT ACTION ACCOMPLISHES:

Allows Board to monitor expenditures being made by County Departments and Divisions to this object code.

MANAGEMENT RECOMMENDATION:

Approve.

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

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:**

Approve [Easement Purchase Agreement](#) for acquisition of Parcel 118-AE (±3,300 square feet), a part of STRAP No. 05-46-25-00-00002.0020, from Jerry and Dianne Lynn, in the amount of \$6,500.00, for the Alico Road/Briarcliff Stormwater Drainage Canal Project No. 4030. Pursuant to the Agreement; authorize payment of costs to close in the approximate amount of \$750.00, and the Division of County Lands to handle all documentation necessary to complete transaction.

(#20101261-COUNTY LANDS)

FUNDING SOURCE:

Fund: Transportation Capital Improvement; Program: Capital Projects; Project: Alico Road.

WHAT ACTION ACCOMPLISHES:

Acquisition of property necessary for the Alico Road-Briarcliff Stormwater Drainage Canal Project No. 4030, without the necessity of an eminent domain action.

MANAGEMENT RECOMMENDATION:

Approve.

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

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

Accept award of Edward Byrne Memorial Justice Assistance Grant funding from the State of Florida, Department of Law Enforcement (FDLE), Office of Criminal Justice Grants; and approve FY10-11 budget resolution in the amount of [\\$129,244.00](#). Also, authorize Chair to sign [sub-recipient provider contracts](#) once prepared.

(#20101255-HUMAN SERVICES)

FUNDING SOURCE:

State of Florida, Department of Law Enforcement.

WHAT ACTION ACCOMPLISHES:

Board action is necessary to establish the budget for the awarded funds and sign the service provider agreements.

MANAGEMENT RECOMMENDATION:

Approve.

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

RESOLUTION NO. 11-01-28**B) ACTION REQUESTED/PURPOSE:**

Authorize [amendment to Contract #5381](#), funded under the Partnering for Results (PFR) funding stream for FY10-11, which will decrease contract by \$64,078.00 or 15%, at agency's request. Also, authorize Chair to execute Contract Amendment once completed

by nonprofit agency. ([#20101256](#)-HUMAN SERVICES)

FUNDING SOURCE:

General Fund Partnering for Results - account string: FC5690200100.508210.

WHAT ACTION ACCOMPLISHES:

Reduces the total amount of contract with Catholic Charities Diocese of Venice.

MANAGEMENT RECOMMENDATION:

Approve.

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

7. INDEPENDENT

A) **ACTION REQUESTED/PURPOSE:**

Accept the following monetary donations: \$572.00 from the Friends of the Cape Coral Library for general library expenses, \$50.00 from the Campbell Family in memorial to Ms. Lois Fritzson for Lakes Regional Library, \$25.00 from R. and N. Swift in memory of Shelia Sevelis for the Cape Coral Library, and \$836.15 from Friends of Riverdale Library for periodical subscriptions. Accordingly, adopt a budget amendment resolution in the amount of \$1,483.00. ([#20110002](#)-LIBRARY)

FUNDING SOURCE:

Donations.

WHAT ACTION ACCOMPLISHES:

Authorizes expenditures pursuant to donors' wishes.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO. 11-01-29](#)

8. NATURAL RESOURCES/ SOLID WASTE

A) **ACTION REQUESTED/PURPOSE:**

Authorize [transfer of funds](#) in the amount of \$885,000.00 from the FY11 Solid Waste Disposal Program Fund #40100 to the FY11 Landfill Closure Escrow Fund #40107, and adopt budget amendment resolution in the amount of \$885,000.00 to acknowledge receipt into Fund #40107. ([#20101258](#)-SOLID WASTE)

FUNDING SOURCE:

Solid Waste System Ops - Disposal Facilities.

WHAT ACTION ACCOMPLISHES:

Provides annual funding to the Lee/Hendry Landfill Closure Escrow Fund Account.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO. 11-01-30](#)

B) **ACTION REQUESTED/PURPOSE:**

Approve, and authorize Chair to execute, [Agreement No. 4600002327](#), South Lee County Conveyance Improvements, between the South Florida Water Management District (SFWMD) and Lee County with a total project cost of \$224,558.00. Approve budget amendment resolution in the amount of \$112,279.00 and authorize expenditures in a like amount for Project No. 20854930100, Halfway Creek Filter Marsh and amend the FY10/11-14/15 CIP accordingly. ([#20110003](#)-NATURAL RESOURCES)

FUNDING SOURCE:

Fund – Capital Improvement Fund; Program – Water Resources Capital Projects; Project – Halfway Creek Filter Marsh.

WHAT ACTION ACCOMPLISHES:

Provides cost share to project recommended in South Lee County Watershed Plan Update.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO. 11-01-31](#)

C) ACTION REQUESTED/PURPOSE:

Approve, and authorize Chair to execute, [Supplemental Task Authorization \(STA\) No. 2](#), CN-08-16 Miscellaneous Professional Services, to HDR Engineering Inc. (non-local), Contract No. 4410 for the project known as Construction & Demolition Processing Facility Engineering & Permitting in the amount of \$46,623.00. This STA will bring the projects' total services to \$119,070.00, requiring Board approval. ([#20110004](#)-SOLID WASTE)

FUNDING SOURCE:

Fund – SW SW Management; Program – Solid Waste Processing Equip; Projects – Professional Services.

WHAT ACTION ACCOMPLISHES:

Provides continuation of engineering and permitting services for the construction & demolition recycling facility.

MANAGEMENT RECOMMENDATION:

Approve.

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

D) ACTION REQUESTED/PURPOSE:

Approve [letter to Jacksonville District, US Army Corps of Engineers](#) stating Lee County's interest in participating in the area-wide Environmental Impact Statement for phosphate mining in the Central Florida Phosphate District. ([#20110005](#)-NATURAL RESOURCES)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Notifies the Corps of the County's willingness to participate and key issues of concern.

MANAGEMENT RECOMMENDATION:

Approve.

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

9. PARKS AND RECREATION

No requests received.

10. PUBLIC SAFETY

No requests received.

11. PUBLIC WORKS ADMINISTRATION

No requests received.

12. TRANSPORTATION**A) ACTION REQUESTED/PURPOSE:**

Approve the correct contract term for BW-08-03 Dedicated Maintenance Support for the Violation Processing System Software/Hardware of the Lee County Toll Systems with VESystems Corporation (Contract #4313), for an initial contract period of three (3) years with the option of renewal for two (2) additional three (3) year terms, up to an estimated amount of \$200,000.00 per year. ([#20101247](#)-TRANSPORTATION)

FUNDING SOURCE:

Fund: Cape and Midpoint Surplus Tolls; Program – Capital Projects; Project – VES (current year)

Fund: Transportation Facilities; Program: Cape, Sanibel, and Midpoint Operating.

WHAT ACTION ACCOMPLISHES:

Corrects the intent of the original contract term of the VESystem's (Contract #4313), Service Provider Agreement.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Approve, and authorize Chair to execute, the attached [Memorandum of Agreement](#)

between the Florida Department of Transportation and Lee County for the on-going monitoring and maintenance of the Bridge Incident Management System (IMS).
 (#20101252-TRANSPORTATION)

FUNDING SOURCE:

Upon completion of the installation and final acceptance by the County, maintenance costs will be charged to DOT Traffic Operating budget as required. Any increased costs should be offset by enhanced maintenance of the overall traffic signal system.

WHAT ACTION ACCOMPLISHES:

Approves a Memorandum of Agreement to allow Lee DOT to perform the on-going maintenance of the IMS.

MANAGEMENT RECOMMENDATION:

Approve.

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

13. UTILITIES

A) **ACTION REQUESTED/PURPOSE:**

Award B-11-04, US 41 Utility Relocation Corkscrew to San Carlos, for the Division of Lee County Utilities (LCU), to the lowest, responsive, responsible bidder, [Southwest Utility Systems, Inc.](#) (a local contractor), for a total not-to-exceed amount of \$434,025.00, with a total project completion time of 400 calendar days. Also, authorize Chair to execute the contract upon receipt. (#20110001-UTILITIES)

FUNDING SOURCE:

Fund: Utilities Capital Improvement; Program: Capital Projects ; Project: US 41 Utility Relocation (Corkscrew-San Carlos).

WHAT ACTION ACCOMPLISHES:

Approves Contractor services for the relocation of the existing LCU water, sewer and reclaim water lines in direct conflict with the proposed FDOT widening of US 41 to six lanes from Corkscrew Road to San Carlos Boulevard.

MANAGEMENT RECOMMENDATION:

Approve.

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

14. COUNTY ATTORNEY

No requests received.

15. HEARING EXAMINER

No requests received.

16. CONSTITUTIONAL OFFICERS

A) **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.

Tax Deed Number	Payee	Amount
2008000972	Helen Y Knight c/o Law Offices of Richardson & Sellers, P.A. Law Offices of Richardson & Sellers, P.A.	\$2,786.87
2008002698	Jennifer Egan Harris	\$338.79
2009004810	Coastal Estates, Inc. c/o Condo & HOA Law Group LLC	\$3,278.02
2009005084	City of Cape Coral	\$41.32
2009005458	First American Mortgage, Inc.	\$54,611.78
2009005544	Professional Research Inc.	\$400.29
2009005759	First American Mortgage, Inc.	\$35,140.21

2009006068	City of Cape Coral	\$5,043.60
2009006069	City of Cape Coral	\$239.73
2010000438	Swearingen & Associates, Inc Lee County Board of County Commissioners	\$14,646.81
2010000474	Commissioners	\$45.46
2010000497	First American Mortgage, Inc.	\$30,417.23
2010001030	Presidential Mortgage Inc. c/o John L Penson, Esquire, P.A.	\$33,771.57
2010001236	USA Real Estate Solutions	\$1,328.22
2010001249	Everald Cummings	\$399.40
2010001249	Sonja Cummings	\$399.41

(#20110012-DELINQUENT TAX)

FUNDING SOURCE:

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

WHAT ACTION ACCOMPLISHES:

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

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Hall moved approval, seconded by Commissioner Judah, 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 January 3 through January 7, 2011:

January 4, 2011 (Regular).

(#20110013-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 Judah, called and carried.

C) ACTION REQUESTED/PURPOSE:

Approve [disbursements](#). The check and wire registers can now be viewed on the Clerk's Website at WWW.LEECLERK.ORG by accessing the BoCC Minutes and Documents link. **(#20100014-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 Judah, called and carried.

17. PORT AUTHORITY AND OTHER GOVERNING BOARDS

No requests received.

ADMINISTRATIVE AGENDA

1. COUNTY ADMINISTRATION

A) ACTION REQUESTED/PURPOSE:

Approval to select underwriters for the Water & Sewer Refunding Revenue Bonds, Series 2011. (#20110008-COUNTY MANAGER)

FUNDING SOURCE:

Fees Paid from Bond Proceeds – Issuance Costs.

WHAT ACTION ACCOMPLISHES:

Provides underwriter selection for the Water & Sewer Refunding Revenue Bonds, Series 2011.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Hall moved approval, seconded by Commissioner Manning. Under discussion and responding to Board questions, Kelly Ryman of Dunlap and Associates provided an overview of the partial refunding of approximately \$100,000,000.00 of the County's Water and Sewer Series 1999 A Bonds representing a 3% savings. Ms. Ryman addressed potential limitations as a result of current market conditions and plans to monitor future maturities. She next addressed the underwriter selection process at the request of Commissioner Mann. Commissioner Bigelow indicated his satisfaction with the make-up of the Selection Committee. The motion was called and carried.

2. COMMUNITY DEVELOPMENT

No requests received.

3. CONSTRUCTION AND DESIGN

No requests received.

4. COUNTY COMMISSIONERS

No requests received.

5. COUNTY LANDS

No requests received.

6. HUMAN SERVICES

No requests received.

7. INDEPENDENT

No requests received.

8. NATURAL RESOURCES/ SOLID WASTE

No requests received.

9. PARKS AND RECREATION

No requests received.

10. PUBLIC SAFETY

No requests received.

11. PUBLIC WORKS ADMINISTRATION

No requests received.

12. TRANSPORTATION

No requests received.

13. UTILITIES

No requests received.

14. COUNTY ATTORNEY

No requests received.

15. HEARING EXAMINER

No requests received.

16. CONSTITUTIONAL OFFICERS

No requests received.

17. PORT AUTHORITY AND OTHER GOVERNING BOARDS

No requests received.

9:30 A.M. AGENDA ITEM – Public Hearing

1. ACTION REQUESTED/PURPOSE:

Conduct a Public Hearing to adopt a Resolution on Petition to Vacate VAC2010-00023, submitted by property owner, Ena VanYsseldyk, to vacate the public interest in two (2), internal, abutting six foot (6') wide Public Utility and Drainage Easements centered along the former common lot line between Lots 17 and 18, Block 48, Unit #7, as shown on the Plat of Units 7 & 8, Section 25, Township 44S, Range 26E. The site is located at 2714 10th Street West, Lehigh Acres, Florida, and its STRAP number is 25-44-26-07-00048.0180. ([#20101190](#)-COMMUNITY DEVELOPMENT)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Extinguishes the internal platted utility and drainage easements on two commonly owned abutting lots, to enable the construction of a residential addition across the subject easements. There are no existing facilities within the utility and drainage easement and the easement is not necessary to accommodate future expansion plans.

MANAGEMENT RECOMMENDATION:

Approve.

Assistant County Attorney Michael Jacob approved, as to legal form and sufficiency, the Affidavit of Publication for this item, and briefly described the request. Commissioner Judah moved approval, seconded by Commissioner Manning. The Chairman called for public comment; however, no one came forward. The motion was called and carried.

[RESOLUTION NO. 11-01-32](#)

COMMISSIONER ITEMS

COUNTY ATTORNEY INTERVIEW PROCESS – Commissioner Hall stated she was recently contacted by a candidate for the County Attorney position and asked whether an interview protocol was in place. Discussion ensued, with Commissioner Bigelow advising that he personally reached out and conducted interviews with all but four of the short-listed candidates to date, and planned to interview the remaining four. There was consensus that, while not illegal to do so, and in the interest of fairness to the candidates, the Commissioners preferred that interviews be conducted by the Board as a whole during a set time period. County Manager Karen B. Hawes indicated that reference checks were currently being conducted on each of the candidates, and the proposed selection timetable, including Board interview schedules, was progressing as expected.

Later in the meeting, following the Quarterly Budget Update under County Manager Items, Commissioner Mann advised that he is personally acquainted with the following County Attorney candidates: Ann Dalton, Mike Ciccarone, Andrea Fraser, and possibly a few more. He continued that he is consequently in favor of each Board member conducting personal interviews of all the candidates as discussed above.

LICENSING ORDINANCE – Commissioner Hall referenced a conversation she had with Community Development Director Mary Gibbs regarding an existing Ordinance that limits licensing opportunities for a certain category of vendors. Community Development Plan Review Building Official Bobby Stewart responded to Board

questions, and there was consensus to review the current Ordinance at the next Management and Planning Committee meeting.

COMMITTEE APPOINTMENTS

Commissioner Manning moved to appoint Carol Fuechsel to the **HUMAN SERVICES COUNCIL**, and to re-appoint Ruby Daniels to the **HISTORIC PRESERVATION BOARD**, seconded by Commissioner Hall, called and carried.

Commissioner Judah moved to appoint Carie Call to the **COMMUNITY SUSTAINABILITY COMMITTEE**, and to re-appoint V. Anthony Luna to the **HARLEM HEIGHTS STREETLIGHTING UNIT**, seconded by Commissioner Manning, called and carried.

COUNTY MANAGER ITEMS

Assistant County Manager Pete Winton provided a [Quarterly Budget Update](#), through December 31, 2010, and advised of the monthly monitoring process. Mr. Winton stated that, while no conclusions can be drawn, the pattern to date is encouraging, and they continue to meet often with the Constitutional Officers. He also advised of a stakeholders committee that meets monthly and other measures being evaluated. Mr. Winton and County Manager Karen Hawes responded to Board questions and agreed to certain budgeting workshops in the February-March timeframe. Mr. Winton also agreed to provide Commissioner Bigelow with frequent reports of expenditures that are outside Board approval requirements.

COUNTY ATTORNEY ITEMS

Interim County Attorney Andrea Fraser had no items for discussion.

The Chairman adjourned the meeting at 10:30 a.m.

ATTEST:
CHARLIE GREEN, CLERK

Deputy Clerk

[Chairman, Lee County Commission](#)