

APRIL 26, 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 Manning, Vice Chairman
 Ray Judah
 Tammara Hall
 A. Brian Bigelow

The Chairman called the meeting to order at 9:30 a.m., and requested a moment of silence for Joanne Fowler, a great volunteer of the 20/20 Committee, who recently passed away. The Invocation was given by Reverend Phil Schlaefer, Unity Church of Bonita Springs, followed by the Pledge of Allegiance to the Flag.

PRESENTATIONS

Commissioner Hall read and presented a Ceremonial Resolution recognizing our Commission for Accreditation of Parks and Recreation Agencies' (CAPRA) visitation team, and thanked them for their dedication and commitment to the field of Parks and Recreation. CAPRA representative Seve Ghose accepted the Resolution, and thanked the Board. (#20110319-Commissioner Hall)

ANNOUNCEMENTS

Referring to the Agenda Recap Sheet dated April 26, 2011, the Chairman announced that:

Walk-on Item No. 1 would be heard at the appropriate time.

The County Attorney would give a briefing on the Proposed Aggregate Mining Legislation.

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

No one from the general public came forward to offer comments.

THERE WERE NO REQUESTS FOR CONSENT AGENDA ITEMS TO BE PULLED FOR DISCUSSION BY THE INDIVIDUAL COMMISSIONERS.

CONSENT AGENDA

1. COUNTY ADMINISTRATION

A) ACTION REQUESTED/PURPOSE:

Approve the Application for State Revenue Sharing Fiscal Year 2011-2012, and authorize Chair to sign the application. (#20110308-COUNTY MANAGER)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

Each unit of government is required by the State to file an application in order to be considered for any funds to be distributed under the Revenue Sharing Act. Allocates State Revenue monies to Lee County.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Approve transfer from reserves of \$400,000.00 to Principal for the Capital Revenue Bonds, Series 1997A (Fund 23665). (#20110311-COUNTY MANAGER)

FUNDING SOURCE:

Fund 23665 Reserves, Cap Ref S97A Debt Service.

WHAT ACTION ACCOMPLISHES:

Establishes sufficient budget to make principal payment paid October 1, 2010 (FY10-11).

MANAGEMENT RECOMMENDATION:

Approve.

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

2. COMMUNITY DEVELOPMENT

A) ACTION REQUESTED/PURPOSE:

- 1) Adopt by Resolution the proposed [Local Housing Assistance Plan](#) for the Lee County SHIP program and approve its transmittal to the Florida Housing Finance Corporation, and
- 2) Authorize the County Manager or designee to make minor revisions that may be required for final state approval. ([#20110294](#)-COMMUNITY DEVELOPMENT)

FUNDING SOURCE:

No funds required.

WHAT ACTION ACCOMPLISHES:

While currently there is no future funding proposed for the SHIP program, the proposed plan is required to expend the remaining SHIP funds plus interest.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO. 11-04-32](#)

3. CONSTRUCTION AND DESIGN

No requests received.

4. COUNTY COMMISSIONERS

No requests received.

5. COUNTY LANDS

A) ACTION REQUESTED/PURPOSE:

A) Approve [Purchase Agreement](#) for acquisition of Parcel 223, a 320 square-foot (SF) Fee Simple interest, and Parcel 223-PE, a 320 square-foot (SF) [Slope Easement](#) interest, collectively located at 16 Homestead Road, Lehigh Acres, for the Homestead Road Widening Project No. 5063 in the total amount of \$2,100.00.

B) Authorize the Chairman on behalf of the Board to execute the Purchase Agreement;

C) Authorize the payment of necessary costs and fees to close.

D) Authorize County Lands Staff to execute and accept all documentation necessary to complete this transaction. ([#20110306](#)-COUNTY LANDS)

FUNDING SOURCE:

Fund: Road Impact Fees - Central District; Program: Capital Projects Project: Homestead Road Widening Project.

WHAT ACTION ACCOMPLISHES:

Acquires the necessary property from Parcel 223 for the widening project.

MANAGEMENT RECOMMENDATION:

Approve.

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

6. HUMAN SERVICES

No requests received.

7. INDEPENDENT

No requests received.

8. NATURAL RESOURCES/ SOLID WASTE

A) ACTION REQUESTED/PURPOSE:

A.) Award B-11-15 Lakes Park Water Quality Improvements to the lowest responsive, responsible bidder meeting all bid requirements, [Douglas N. Higgins, Inc.](#) (a local vendor),

for a not-to-exceed amount of \$487,985.00 with a project duration of 150 calendar days.

B.) Authorize Chair to execute contract on behalf of the Board upon receipt.

(#20110293-NATURAL RESOURCES)

FUNDING SOURCE:

Fund – Capital Improvement Fund; Program – Water Resources Capital Projects; Project – Lakes Park Water Quality Improvements.

WHAT ACTION ACCOMPLISHES:

Upgrades water quality of the West Lake by improving circulation via the addition of two new control structures. Additional improvements include the re-grading of four existing spoil pile islands to create littoral shelves by the removal of exotic and nuisance species; removal of spoil material and the planting of native wetland vegetation.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) **ACTION REQUESTED/PURPOSE:**

Authorize the Solid Waste Division to replace a temporary Driver position with a full-time Driver position. (#20110315-SOLID WASTE)

FUNDING SOURCE:

Solid Waste System Ops - Disposal Facilities. No additional funds required.

WHAT ACTION ACCOMPLISHES:

Provides the Division with a full-time employee position required to transport solid waste, recyclables, biosolids, and ash.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Judah moved approval, seconded by Commissioner Manning, 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:**

1) Approve [Addendum to the Construction Manager Agreement](#) under project RFQ-10-03 Construction Manager for Cape Coral and Midpoint Plaza One-Way Conversion, for the Cape Coral Toll Plaza portion of this project to Compass Construction, Inc. (a local contractor), in the Guaranteed Maximum Price (GMP) of \$7,351,000.00 (includes CM Fee of \$405,341.00 or 6.5%) utilizing 90% local contractors, with a fourteen (14) month completion time.

2) Authorize Chair to execute Addendum on behalf of the Board.

3) Approve [budget transfer](#) in the amount of \$3,887,891.00 from Fund #42135 Cape & Midpoint Surplus Reserves and Project #205039 VES.

4) Approve FY 2010/11 - 2014/15 CIP accordingly. (#20110273-TRANSPORTATION)

FUNDING SOURCE:

Fund – Cape/Midpoint Surplus; Project – Capital Projects; Project – Cape/Midpoint Plaza Reconstruction.

WHAT ACTION ACCOMPLISHES:

Provides a Construction Manager for the demolition and re-construction for the Cape Coral Toll Plaza one-way conversion.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

- (a) Approve Project # PB110246, the utilization (piggyback) of Osceola County's Bid # AR-11-1950-DW, which has gone through their competitive bidding process, for the annual purchase for DOT of sign sheeting materials.
- (b) Approve the purchase of these materials from 3M Company for the unit prices as listed on the attached Tabulation Sheet.
- (c) Approve the annual expenditure of approximately \$150,000.00 for the acquisition of sign sheeting materials under this Bid.
- (d) Approve the piggybacking and use of this Bid for its full term which is through March 6, 2014. ([#20110287](#)-TRANSPORTATION)

FUNDING SOURCE:

Fund – Transportation Trust; Program – DOT Traffic - Signs & Markings.

WHAT ACTION ACCOMPLISHES:

Allows the Transportation Department (Sign Shop) to purchase sign sheeting material in a cost-effective, efficient, and timely manner.

MANAGEMENT RECOMMENDATION:

Approve.

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

13. UTILITIES**A) ACTION REQUESTED/PURPOSE:**

Developer Contributed Asset: Approve final acceptance, by Resolution, as a donation of a water main and force main relocation to Miromar Outlet Mall Corkscrew Road Access Improvements. This asset project is located at the northwest corner of Corkscrew Road and Ben Hill Griffin Parkway. ([#20110289](#)-UTILITIES)

FUNDING SOURCE:

No funds required.

WHAT ACTION ACCOMPLISHES:

Provides adequate utility infrastructure to support the recent addition of turn lanes and other related roadway improvements to this section of Corkscrew Road and Ben Hill Griffin Parkway, and complies with the Lee County Utilities Design Manual.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO. 11-04-33](#)

B) ACTION REQUESTED/PURPOSE:

Developer Contributed Asset: Approve construction of a water and gravity main extension - Park Royal Hospital, to provide potable water service, fire protection, and sanitary sewer service to this proposed medical facility. This asset project is located on the south side of Park Royal Drive, approximately 750 feet east of Bass Road. ([#20110290](#)-UTILITIES)

FUNDING SOURCE:

No funds required.

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

C) ACTION REQUESTED/PURPOSE:

[Budget Transfer](#) (BS 20110299/19749, KAM/SDG): Approve CIP Budget Transfer in the amount of \$50,000.00 from the Corkscrew Road & I-75 Interchange Project to the Summerlin Road Water System Improvements Project, and amend the FY '10/11 CIP Budget accordingly. ([#20110299](#)-UTILITIES)

FUNDING SOURCE:

Funds: LCU Capital Improvements; Program: Capital Projects; Project: Summerlin Road Water System Improvements.

WHAT ACTION ACCOMPLISHES:

Provides funds to complete bidding and engineering construction services for the Summerlin Road Water System Improvements Project, Phase IIB.

MANAGEMENT RECOMMENDATION:

Approve.

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

14. COUNTY ATTORNEY

No requests received.

15. HEARING EXAMINER

No requests received.

16. CONSTITUTIONAL OFFICERS

A) ACTION REQUESTED/PURPOSE:

Approve [disbursements](#). The check and wire registers can now be viewed on the Clerk's Website at WWW.LEECLERK.ORG by accessing the BoCC Minutes and Documents link. ([#20110320](#)-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 Judah moved approval, seconded by Commissioner Manning, called and carried.

B) ACTION REQUESTED/PURPOSE:

Approve the Minutes for the following meetings of the Board of County Commissioners held during the week of April 11 through April 15, 2011:

April 11, 2011 (Management & Planning Overflow) April 12, 2011 (Regular)

([#20110321](#)-MINUTES)

FUNDING SOURCE:

N/A

WHAT ACTION ACCOMPLISHES:

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

MANAGEMENT RECOMMENDATION:

Approve.

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

17. PORT AUTHORITY AND OTHER GOVERNING BOARDS

No requests received.

ADMINISTRATIVE AGENDA

1. COUNTY ADMINISTRATION

A) ACTION REQUESTED/PURPOSE:

Approve pre-litigation settlement agreement in the liability case of Tarver, Leroy et al. v. Lee County, in the amount of \$200,000.00 inclusive of attorney's fees and costs.

([#20110297](#)-COUNTY MANAGER)

FUNDING SOURCE:

Self-Insurance Loss Fund.

WHAT ACTION ACCOMPLISHES:

Resolves this case prior to trial, limiting the County's exposure.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Judah moved approval, seconded by Commissioner Manning, 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

A) ACTION REQUESTED/PURPOSE:

Approve the Amended Resolution of Necessity to provide for the modification of the legal description for Parcel 116-AE, Alico Road/Briarcliff Stormwater Drainage Canal Project No. 4030 (Stormwater Drainage Facility Maintenance).

(#20110310-COUNTY ATTORNEY)

FUNDING SOURCE:

No funds are required.

WHAT ACTION ACCOMPLISHES:

Allows the County to proceed with condemnation and clear title, so the parcel can be acquired for the Alico Road/Briarcliff Stormwater Drainage Canal Project No. 4030.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO. 11-04-34](#)

15. HEARING EXAMINER

No requests received.

16. CONSTITUTIONAL OFFICERS

A) 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). ([#20110322](#)-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 to you 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 Manning moved approval, seconded by Commissioner Judah, called and carried.

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 VAC2011-00003, submitted by Debi Pendlebury of Johnson Engineering, Inc., on behalf of the owners, Robert I. Gale, III and Cathy Gale, to vacate a twelve-foot (12') wide Public Utility Easements, centered along the common lot line between Lots 33 and 34, Boca Grande Isles recorded in Plat Book 29 at Page 4 of the Public Records of Lee County, Florida, less and except the east six feet (6') thereof. ([#20110237](#)-COMMUNITY DEVELOPMENT)

FUNDING SOURCE:

No funding required.

WHAT ACTION ACCOMPLISHES:

Extinguishes the utility easement to remove a title encumbrance for a single family residence inadvertently constructed across the easement centered on two combined lots in 1984. 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.

MANAGEMENT RECOMMENDATION:

Approve.

Assistant County Attorney Michael Jacob approved as to legal form and sufficiency, the [Affidavit of Publication](#) for the 9:30 a.m. Agenda Item No. 1; and briefly reviewed this request. The Chairman called for public comment; however, no one came forward. Commissioner Manning moved approval, seconded by Commissioner Judah, called and carried.

[RESOLUTION NO. 11-04-35](#)

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

Reschedule the Public Hearing (PH) related to the consideration of amendments to County Ordinance 08-10 (flow control of recycling materials), currently scheduled for May 10, 2011 at 5:00 PM, to May 24, 2011 at 5:00 PM. ([#20110340-SOLID WASTE](#))

FUNDING SOURCE:

Not applicable.

WHAT ACTION ACCOMPLISHES:

Reschedules a Public Hearing agenda item.

MANAGEMENT RECOMMENDATION:

Approve.

REASON FOR WALK ON:

Four Commissioners will need to leave the May 10 PH by 5:30 PM. Rescheduling this agenda item will allow more time for discussion.

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

COMMISSIONER ITEMS**ASSISTANT COUNTY MANAGERS PETE WINTON & HOLLY SCHWARTZ COMMENDED** -

Commissioner Bigelow commended both Ms. Schwartz and Mr. Winton for a job well done during County Manager Karen Hawes' absence. Ms. Hawes thanked Commissioner Bigelow.

[SENATE BILL 1122 AND HOUSE BILL 7129](#) – Commissioner Judah moved that the Board send a letter or a Resolution to the appropriate House and the Senate to oppose the two bills with regards to Growth Management, seconded by Commissioner Hall. Following brief Board discussion, with Chairman Mann requesting Commissioner Judah confer with Assistant County Manager Holly Schwartz and bring the draft letter back to the Board at this evening's meeting, the motion was called and carried.

LATER IN THE EVEING IMMEDIATELY FOLLOWING THE 5:00 PM HEARING:

Chairman Mann noted that in this morning's Board meeting, it was Board consensus that the letter requested by Commissioner Judah opposing the two (2) Bills be brought back with specificity to this afternoon's meeting. Since there was no objection from the Board on the revised letter, the Chairman stated that the letter will be sent.

LEESAR GROUNDBREAKING – Commissioner Hall reported on the groundbreaking of LeeSar on Friday, and noted that Commissioners Bigelow and Judah were also in attendance. She further commended Lee Economic Development Director Jim Moore and his team for working with the City of Fort Myers.

COMMISSIONER JUDAH COMMENDED – Chairman Mann informed he had received a note from Town of Fort Myers Beach Mayor Larry Kiker commending and thanking Commissioner Judah for meeting with the citizens of Fort Myers Beach. Commissioner Judah also thanked Parks & Recreation Director Barbara Manzo for her assistance.

COMMITTEE APPOINTMENTS

Chairman Mann requested a motion to reappoint Carlos E. Urzola to the **PARTNERING FOR RESULTS COMMITTEE**. Commissioner Hall moved approval, seconded by Commissioner Manning, called and carried.

Commissioner Hall moved to appoint John Tierman to the **PARTNERING FOR RESULTS COMMITTEE**; appoint Michael Ekblad to the **LAND DEVELOPMENT CODE**, seconded by Commissioner Manning, called and carried.

Commissioner Manning moved to reappoint Sally Tapager to the **PARKS AND RECREATION ADVISORY COMMITTEE**, seconded by Commissioner Hall, called and carried.

COUNTY MANAGER ITEMS

County Manager Karen Hawes had no items to be discussed.

COUNTY ATTORNEY ITEMS

Assistant County Attorney Dawn Perry-Lehnert noted a [letter](#) drafted for the Board’s review would be sent to various Committees on the Environmental Bill that provided for a pre-emption. Commissioner Judah moved approval, seconded by Commissioner Manning. Board discussion ensued with Chairman Mann informing that upon notice of this issues, he called and talked to the Lee County Legislative delegation on the subject. The motion was called and carried.

The Chairman recessed the meeting until 5:00 p.m. The Chairman called the meeting back to order at 5:00 p.m. with all Commissioners present with the exception of Commissioners Manning and Bigelow.

5:00 P.M. AGENDA ITEM - Public Hearing

1. ACTION REQUESTED/PURPOSE:

CIP Assessment (BS 20110295/19745, TH/SDG): Conduct a Public Hearing on April 26, 2011 at 5:00 p.m. to adopt a Resolution approving the "Petition for Approval of Membership Capital Improvements Assessment" from the Gasparilla Island Water Association, Inc. (GIWA) to assess its membership. ([#20110295-UTILITIES](#))

FUNDING SOURCE:

No funds required.

WHAT ACTION ACCOMPLISHES:

Provides required Board approval for GIWA to assess each member a monthly installment for 5 years to finance the relocation of GIWA’s water and sewer mains at the three bridges on Boca Grande Causeway when the new bridges are constructed.

MANAGEMENT RECOMMENDATION:

Approval.

Assistant County Attorney Scott Coover approved as to legal form and sufficiency, the [Affidavit of Publication](#) for the 5:00 p.m. Agenda Item No. 1; and briefly reviewed this request. The Chairman called for public comment; however, no one came forward. Commissioner Hall moved approval, seconded by Commissioner Judah, called and carried with Commissioners Manning and Bigelow absent.

[RESOLUTION NO. 11-04-36](#)

5:05 P.M. AGENDA ITEM - Public Presentation of Matters by Citizens

Fort Myers Beach resident [Chris Schaab](#) expressed concern with the health of the beaches and waterways on FMB.

The Chairman adjourned the meeting at 5:05 p.m.

ATTEST:

CHARLIE GREEN, CLERK

Deputy Clerk

[Chairman, Lee County Commission](#)