

MARCH 5, 2013

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

Cecil L Pendergrass, Chairman
Larry Kiker, Vice-Chairman
John E. Manning
Frank B. Mann

COMMISSIONER HALL WAS ABSENT FOR THE ENTIRE MEETING.

The Chairman called the meeting to order at 9:30 a.m. The Invocation was given by Pastor Matt Booher, Emmanuel Baptist Church, followed by the Pledge of Allegiance to the flag.

PRESENTATIONS

Commissioner Manning read and presented a Ceremonial Resolution recognizing Southwest Florida Chapter #297 and its many dedicated volunteers for their steadfast work on behalf of women in construction, proclaiming the week of March 3-9, 2013 as Women in Construction Week in Lee County, and encouraging our citizens to congratulate the organization on its many accomplishments. National Association of Women in Construction of Southwest Florida Chapter #297 representative Nancy Martins accepted the Resolution and thanked the Board. (#20130197-Commissioner Manning)

ONE WALK-ON ITEM WAS HEARD AT THIS TIME. SEE THE WALK-ON PORTION OF THE MEETING.

ANNOUNCEMENTS

Referring to the Agenda Recap Sheet dated March 5, 2013 the Chairman announced that:

One Walk-on Item would be heard during the presentations.

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

C9(b) – Nation’s Association representative Susan Perez
C12(a) – St. Petersburg resident Reginald Mesimer

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

Commissioner Pendergrass - None
Commissioner Kiker – 8(a), 12(a)
Commissioner Manning - None
Commissioner Mann – 8(a)

CONSENT AGENDA

1. COUNTY ADMINISTRATION

No requests received.

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**

A) **ACTION REQUESTED/PURPOSE:**

a) Approve project no. EX130251, the piggybacking on State of Florida Contract# 360-240-12-1 pertaining to Floor Coverings with Related Supplies, Equipment and Services, using the prices as stated on the Florida State Contract, through the contract expiration on March 19, 2016 and any extensions executed by the State.

b) Approve a total annual estimated expenditure for floor coverings and related supplies of \$500,000. ([#20130168](#)-PROCUREMENT MANAGEMENT)

FUNDING SOURCE:

Funding will come from the individual department or division budget that will be responsible for monitoring their individual expenditures.

WHAT ACTION ACCOMPLISHES:

Allows the County to purchase flooring at a competitive price. Also provides for a wider selection of brands for many of the County's different applications.

MANAGEMENT RECOMMENDATION:

Approve

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

B) **ACTION REQUESTED/PURPOSE:**

(1) Adopt a resolution providing for amendments to Lee County Administrative Code (AC) 4-1 (Purchasing Policy and Procedures Manual) - Section 27: Procurement Card Policies and Procedures - to provide for a series of minor updates and specifically amend the policies and procedures to allow increased spending limits for certain County employees.

(2) Authorize the Chair on behalf of the BOCC to execute and sign the attached Resolution.

([#20130171](#)-PROCUREMENT MANAGEMENT)

FUNDING SOURCE:

None required.

WHAT ACTION ACCOMPLISHES:

Allows the County to substantially increase the monetary rebate (see Background) on its annual credit card spend; thus increasing a source of revenue.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO. 13-03-01](#)

C) **ACTION REQUESTED/PURPOSE:**

Adopt budget amendment resolution in the amount of \$95,700 which represents total projected revenue in FY 12-13 for the 14th annual Lee County Reading Festival to be held on March 16, 2013. Authorize [transfer](#) of funds from Reading Festival Fund reserves in the amount of \$4,000 to cover additional anticipated expenditures beyond the \$95,700.

([#20130175](#)-LIBRARY)

FUNDING SOURCE:

Reading Festival related donations and Reading Festival Fund reserves.

WHAT ACTION ACCOMPLISHES:

Accepts various donations, authorizes expenditures and authorizes transfer of funds from Reading Festival Fund Reserves.

MANAGEMENT RECOMMENDATION:

Approve.

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

RESOLUTION NO. 13-03-02**8. NATURAL RESOURCES/SOLID WASTE****A) ACTION REQUESTED/PURPOSE:**

A) Approve the award of Project # PB130222, the piggyback of the National Intergovernmental Purchasing Alliance (National IPA) contract for the purchase and distribution of 41,500 wheeled recycling carts for Solid Waste, from [Toter, Inc.](#), at the grand total price of \$1,868,325 (\$1,712,700 for the carts and \$155,625 for assembly and distribution).

B) Authorize the Chair to execute the accompanying quote from Toter.

C) Approve the [transfer](#) of \$1,868,325 from the Solid Waste Recycling Reserves to the Solid Waste Recycling FY13 Operating Fund. ([#20130188](#)-SOLID WASTE)

FUNDING SOURCE:

Fund - Solid Waste Recycling; Program - Environmental Services-Solid Waste Recycling; Project - Purchase and distribution of 41,500 wheeled recycling carts from Toter, Inc.

WHAT ACTION ACCOMPLISHES:

This purchase is required pursuant to the Board's action on January 29, 2013 that changed the curbside collection procedure in franchise area 4 from bins to wheeled carts, providing larger recycling containers that are easier to use.

MANAGEMENT RECOMMENDATION:

Approve.

PULLED FOR DISCUSSION

Responding to inquiries from Commissioners Kiker, Mann and Pendergrass, Solid Waste Director Lindsey Sampson stated that the item was not budgeted last year or this year. He explained that the conversion from bins to wheeled carts for Area 4 consisting of east Fort Myers, Alva and Lehigh Acres area was approved by the Board on January 29, 2013. He further clarified the rationale for forgoing the RFP process, purchasing of 41,500 wheeled recycling carts from Toter, Inc., and the transfer of \$1,868,325.00 from the Solid Waste Recycling Reserves to the Solid Waste Recycling FY 13 Operating Fund. Commissioner Kiker moved approval, seconded by Commissioner Mann, called and carried, with Commissioner Hall absent.

9. PARKS AND RECREATION**A) ACTION REQUESTED/PURPOSE:**

Approve the Persimmon Ridge Preserve Land Stewardship Plan. ([#20130164](#)-PARKS AND RECREATION)

FUNDING SOURCE:

N/A.

WHAT ACTION ACCOMPLISHES:

Approval of the Persimmon Ridge Preserve Land Stewardship Plan establishes guidelines for restoration, stewardship activities, and use of the Preserve.

MANAGEMENT RECOMMENDATION:

Approve.

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

B) ACTION REQUESTED/PURPOSE:

Approve and execute a lease agreement between Lee County and the [Nations Association Charities, Inc.](#) regarding the use of a portion of Schandler Hall Community Park for the purpose of providing recreational programs and services to the surrounding community for a period of five years with the option to renew the Agreement for one additional five year term. ([#20130173](#)-PARKS AND RECREATION)

FUNDING SOURCE:

N/A.

WHAT ACTION ACCOMPLISHES:

Allows the Nations Association Charities, Inc. to use certain the buildings at the Schandler Hall Community Park, including the community center, portable classroom, and Suarez Hall, to provide recreational and educational programs to the youth and adults in the east Fort Myers community.

MANAGEMENT RECOMMENDATION:

Approve.

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

- C) **ACTION REQUESTED/PURPOSE:**
 Approve Big Hickory Island Preserve Land Stewardship Plan.
 (#20130189-PARKS AND RECREATION)
FUNDING SOURCE:
 N/A.
WHAT ACTION ACCOMPLISHES:
 Provides a land stewardship plan for Big Hickory Island Preserve.
MANAGEMENT RECOMMENDATION:
 Approve.

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

10. PUBLIC SAFETY

No requests received.

11. PUBLIC WORKS ADMINISTRATION

No requests received.

12. TRANSPORTATION

- A) **ACTION REQUESTED/PURPOSE:**
 A) Approve Change Order No. 5 with Compass Construction contract #5129, RFQ-10-03 CONSTRUCTION MANAGER FOR CAPE CORAL AND MIDPOINT PLAZA ONE-WAY CONVERSION, in the amount of \$169,826.04.
 B) Authorize Chair to execute Change Order No. 5 on behalf of the Board.
 (#20130154-UTILITIES)
FUNDING SOURCE:
 Cape/Midpoint Surplus; Project – Capital Projects; Project – Cape/Midpoint Plaza Reconstruction. Construction funds for this project were originally programmed in FY 2008/09 when the BOCC approved the concept of one-way tolling; those funds have been carried over to complete construction in FY 2012/13. There are funds available in the project for this change order.
WHAT ACTION ACCOMPLISHES:
 Approves final change order for RFQ-10-03 and allows closeout of this Project.
MANAGEMENT RECOMMENDATION:
 Approve.

PULLED FOR DISCUSSION

Department of Transportation Director Dave Loveland responded to Commissioner Kiker, noting that in both projects, the County had saved some amounts. Commissioner Kiker moved approval, seconded by Commissioner Manning, called and carried, with Commissioner Hall absent.

13. UTILITIES

- A) **ACTION REQUESTED/PURPOSE:**
 Developer Contributed Asset - The Preserve at Corkscrew, Phase 3 (BS 20130154/26462, THO/SDG): Approve construction of water main and gravity main extensions to provide potable water service, fire protection and sanitary sewer service to "THE PRESERVE AT CORKSCREW, PHASE 3", a phased residential development. This is a Developer contributed asset project located on the south side of Corkscrew Road approximately 2 miles east of Ben Hill Griffin Parkway. (#20130154-UTILITIES)
FUNDING SOURCE:
 N/A.
WHAT ACTION ACCOMPLISHES:
 Provides adequate utility infrastructure to support development of this phase of the subject property and complies with the Lee County Utilities Design Manual.
MANAGEMENT RECOMMENDATION:
 Approval.

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

B) ACTION REQUESTED/PURPOSE:

Developer Contributed Asset - Miromar Lakes, The Peninsula, Phase 3 (BS 20130155/26463, THO/SDG): Approve construction of a water distribution and gravity collection systems serving "THE PENINSULA, PHASE 3, AT MIROMAR LAKES", to provide potable water service, fire protection, and sanitary sewer service to serve this phase of the proposed single-family subdivision. This is a Developer contributed asset project located at the southeast corner of Alico Road and Ben Hill Griffin Parkway. ([#20130155-UTILITIES](#))

FUNDING SOURCE:

N/A.

WHAT ACTION ACCOMPLISHES:

Provides adequate utility infrastructure to support development of this phase of the subject property and complies with the Lee County Utilities Design Manual.

MANAGEMENT RECOMMENDATION:

Approval.

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

14. COUNTY ATTORNEY

A) ACTION REQUESTED/PURPOSE:

Request permission to advertise for and conduct a Public Hearing on Tuesday, March 26, 2013, at 9:30 a.m. to amend Lee County Ordinance No. 07-28, as amended by Ordinance Nos. 09-1 and 10-31, The Tourist Development Tax (TDT).

([#20130183-COUNTY ATTORNEY](#))

FUNDING SOURCE:

N/A.

WHAT ACTION ACCOMPLISHES:

Allows the process for ordinance revision to go forward to Public Hearing to consider adoption. If adopted would allow the county to receive the \$500,000 per year grant (for 30 years) from the state for improvements to the Lee County Sports Complex (Minnesota Twins stadium) and use the funds to repay debt.

MANAGEMENT RECOMMENDATION:

Set Public Hearing date for Tuesday, March 26, 2013.

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

15. HEARING EXAMINER

No requests received.

16. CONSTITUTIONAL OFFICERS

A) ACTION REQUESTED/PURPOSE:

Request Board approves [disbursements](#). The check and wire registers can now be viewed on the Clerk's website, www.leeclerk.org by accessing the BoCC Minutes and Documents link. ([#20130193-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 Mann moved approval, seconded by Commissioner Manning, called and carried, with Commissioner Hall absent.

B) ACTION REQUESTED/PURPOSE:

Approve the Minutes for the following meetings of the Board of County Commissioners

held during the week of February 18 thru February 22, 2013:

February 18, 2013 (Zoning)	February 18, 2013 (Budget)
February 19, 2013 (Regular)	February 20, 2013 (Joint w/ Fort Myers Beach)

(#20130195-MINUTES)

FUNDING SOURCE:

Not Applicable.

WHAT ACTION ACCOMPLISHES:

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

MANAGEMENT RECOMMENDATION:

Approve.

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

17. PORT AUTHORITY AND OTHER GOVERNING BOARDS

No requests received.

ADMINISTRATIVE AGENDA

1. COUNTY ADMINISTRATION

No requests received.

2. COMMUNITY DEVELOPMENT

A) ACTION REQUESTED/PURPOSE:

Adopt a Resolution amending Lee County Administrative Code (Section 13-6 Annual Lee Plan Amendment Procedures) to allow comprehensive plan amendments to be initiated at any time in the calendar year. (#20130185-COMMUNITY DEVELOPMENT)

FUNDING SOURCE:

N/A.

WHAT ACTION ACCOMPLISHES:

Streamlines the comprehensive plan amendment process for privately initiated amendments.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO. 13-03-03](#)

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

A) ACTION REQUESTED/PURPOSE:

(A) Approve Bid Waiver # W-130217 to waive the formal quotation procedure and allow GIS Operations to purchase Geographic Information System (GIS) software from

Environmental Systems Research Institute, Inc. (ESRI), the sole source for the software licenses and maintenance.

(B) Approve waiver #W-130217 for a period of 5 years.

(C) Approve an annual expenditure not-to-exceed \$150,000 for the term of the new waiver #W-130217, which will allow for increasing yearly maintenance costs and the [purchase of additional licenses](#) to provide enhanced functionality over the next 5 years. (#20130159-GEOGRAPHIC INFORMATION SYSTEM)

FUNDING SOURCE:

Fund: General Fund; GIS Operations.

WHAT ACTION ACCOMPLISHES:

Allows purchases of GIS software providing additional functionality needed to support and advance the Lee County GIS for internal and public access.

MANAGEMENT RECOMMENDATION:

Approve.

Commissioner Manning moved approval, seconded by Commissioner Kiker. Geographic Information System (GIS) Manager Amy Hoyt noted that the Environmental Systems Research Institute, Inc., (ESRI) is the sole source provider for state of the art GIS software and briefly explained the requested annual expenditure. Following brief Board discussion, the motion was called and carried, with Commissioner Hall absent.

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

A) **ACTION REQUESTED/PURPOSE:**

Adopt resolution amending the Summerlin Road Controlled Access Resolution No. 93-11-112 to modify an existing access point on the East side of Summerlin Road at STA 203+28; and modify the access point at STA 180+50 to coincide with improvements made during the widening of Summerlin Road (San Carlos Boulevard to Gladiolus Drive).

(#20130163-TRANSPORTATION)

FUNDING SOURCE:

No funds required.

WHAT ACTION ACCOMPLISHES:

Allows for improved traffic circulation and access to Summerlin Road by reducing the amount of trips through the signalized intersections.

MANAGEMENT RECOMMENDATION:

Approve.

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

[RESOLUTION NO. 13-03-04](#)

13. UTILITIES

No requests received.

14. COUNTY ATTORNEY

A) **ACTION REQUESTED/PURPOSE:**

Adopt a Resolution approving the issuance by the Lee County Industrial Development Authority of its housing revenue bonds, Series 2013, in a principal amount not to exceed

\$49,025,000, to be issued for the benefit of 46 Pittman LLC (the "Borrower"). The Borrower will use the proceeds for the principal purposes of a 340-unit senior independent living facility. ([#20130176](#)-COUNTY ATTORNEY)

FUNDING SOURCE:

None. The approval being requested of the Board of County Commissioners is solely to comply with federal tax laws. Neither the County nor the Lee County Industrial Development Authority will have any economic, financial or other liability or responsibility for the bonds.

WHAT ACTION ACCOMPLISHES:

Provides Board consideration of proposed Lee County Industrial Development Authority of its private activity housing revenue bonds as required by Internal Revenue Code and Florida Statutes. Board approval will authorize and adopt the approving Bond Issuance Resolution.

MANAGEMENT RECOMMENDATION:

Approve the adoption of the Resolution with all stated terms and conditions.

Commissioner Manning moved approval, seconded by Commissioner Kiker. Responding to Commissioner Mann, Acting County Attorney Andrea Fraser noted the County is not extending any type of credit towards these bonds because of the IRS rules and Florida Statutes requiring that it be brought before the Board. Economic Development Authority Director Jim Moore noted that there is an appropriate equity layer for the bonds. Lee County Industrial Development Authority representative Jim Humphrey clarified that although these bonds are not insured, there will be a private placement for sophisticated investors to purchase the bonds. The motion was called and carried, with Commissioner Hall absent.

[RESOLUTION NO. 13-03-05](#)

B) ACTION REQUESTED/PURPOSE:

Consider [settlement](#) offer and either accept, reject or counter-offer in the whistleblower action Karl Harsh, Anthony Cira, Thomas Felde, Edward Ferguson, Leonard Luersen, James Raimbeault and Kenneth Sager v. Lee County, Case No. 09CA-902, in the amount of \$473,630.95 (without interest) inclusive of all attorney's fees and costs or \$520,546.09 (with interest) inclusive of all attorney's fees and costs.

([#20130144](#)-COUNTY ATTORNEY)

FUNDING SOURCE:

Fund – General Fund; Program – Non-Departmental; Project – Harsh, et al. v. Lee County Settlement.

WHAT ACTION ACCOMPLISHES:

If accepted, it settles the case, and results in the case being concluded.

MANAGEMENT RECOMMENDATION:

Reject offer that includes interest and make counter-offer that is without interest.

Acting County Attorney Andrea Fraser reviewed the case and recommended settlement with the seven (7) Lee County employees. Board discussion ensued with Attorney Fraser responding to questions, noting that if the Board does not settle this case, the County would be liable, and the case would move forward. Commissioner Mann moved approval, seconded by Commissioner Pendergrass for discussion. The motion was called and carried with Commissioner Manning voting nay, and Commissioner Hall absent.

15. HEARING EXAMINER

No requests received.

16. CONSTITUTIONAL OFFICERS

No requests received.

17. PORT AUTHORITY AND OTHER GOVERNING BOARDS

No requests received.

WALK-ON ITEM NO. 1

1. ACTION REQUESTED/PURPOSE:

Ceremonial presentation to the Board by [William Marquardt, Ph.D](#) in celebration of Archeology Month. ([#20130205](#)-Commissioner Pendergrass)

In appreciation of the great support extended by the Lee County Board of County Commissioners, Curator of South Florida Archaeology and Ethnography, Dr. William Marquardt, Ph.D, presented each Board member a newly published book summarizing what was learned about archaeology, history, and ecology of the Pineland site. The Board accepted the books and thanked Dr. Marquardt.

COMMISSIONER ITEMS

AIRPORT INSURANCE – Commissioner Kiker requested an analysis of the insurance for airport personnel. Assistant County Manager Pete Winton agreed to furnish the requested information.

BUDGET REGARDING IMPACT FEES – Commissioner Kiker noted all the different issues on the budget, and requested if staff could come-up with work sessions.

COMMITTEE APPOINTMENTS

Commissioner Pendergrass requested a motion to appoint John Goodrich to the **AIRPORTS SPECIAL MANAGEMENT COMMITTEE**, appoint Al Giacalone to the **BICYCLE/PEDESTRIAN COMMITTEE**, appoint Clara Anne Graham to the **COMMUNITY SUSTAINABILITY COMMITTEE**, appoint Robert Sharkey to the **WATERWAYS COMMITTEE**, appoint Nora Demers to the **SAN CARLOS PARK SIU**, and appoint John Kiseda to the **TANGLEWOOD MSTU**. Commissioner Manning moved approval, seconded by Commissioner Mann, called and carried, with Commissioner Hall absent.

Commissioner Manning moved to appoint John T. Balfe to the **DEWBERRY LAND SPECIAL IMPROVEMENT O & M COMMITTEE**, seconded by Commissioner Mann, called and carried, with Commissioner Hall absent.

Commissioner Kiker moved to appoint Kenneth McElaeny and James Greeson to the **OLD PELICAN BAY CHANNEL SPECIAL IMPROVEMENT COMMITTEE**, and appoint Elizabeth Bernstein and Caroline Keys to the **PALMETTO POINT & PALMETTO POINT UNIT 2 SPECIAL IMPROVEMENT DISTRICT**, seconded by Commissioner Manning, called and carried, with Commissioner Hall absent.

COUNTY MANAGER ITEMS

Interim County Manager Doug Meurer had no items to be discussed.

COUNTY ATTORNEY ITEMS

Acting County Attorney Andrea Fraser had no items to be discussed.

The Chairman adjourned the meeting at 10:32 a.m.

ATTEST:
LINDA DOGGETT, CLERK

Deputy Clerk

[Chairman, Lee County Commission](#)